













HISTORICAL INTRODUCTION  
TO THE  
BENGAL PORTION  
OF  
"THE FIFTH REPORT"

BY  
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1769

**SUPREME :** The Select Committee. The Hon'ble John Cartier—*President*. Richard Becher, General Sir Robert Barker, James Alexander, Samuel Middleton—*Members*.

**INTERMEDIATE :** The Resident at the Durbar, Murshidabad.

**SUBORDINATE :** European Supervisors or Supervisors. *Resolution of the Select Committee, 1769, August 16th :* "That in every province or district, a gentleman in the service be appointed, with or without assistance in proportion to the extent of the district, whose office is to be subordinate to the Resident of the Durbar". Instructions for management to be found in Select Committee's proceedings of 1st. December, 1769.

**NOTES :** The Select Committee was a general executive body and not merely concerned with revenue administration. It had been the instrument by which Lord Clive had carried out his reforms in the Company's civil service in 1764-65.

1770, 13th. July

**SUPREME :**

**INTERMEDIATE :** The Comptrolling Council of Revenue at Murshidabad. (Constituted by the President and Council of Fort William by letter of July 13th.) Richard Becher—*Chief*. John Reed, Jas. Lawrell, John Graham—*Members*. Mahomed Riza Khan—*Naib Diwan*. The Comptrolling Council of Revenue at Patna. (Constituted by letter of the President and Council, dated the 11th. October, 1770). James Alexander—*Chief*. George Vansittart, Robert Palk—*Members*. Raja Shitab Ray—*Naib Diwan for Bihar*.

**SUBORDINATE :**

**NOTE :** "Mr. Becher was ill at Balasore when the orders arrived, and the Council met under the Presidency of Mr. Reed for the first time on the 25th. September, 1770. Mr. Becher arrived at Murshidabad on the 12th. November, 1770, and presided for the first time at the Council of 15th. November, 1770. He retired from his post on 24th. December, 1770".

1771, April 1st.

**SUPREME :** The Comptrolling Committee of Revenue sits for the first time. The Hon'ble John Cartier—*President*. Thos. Kelsall, Chas. Floyer, John Reed, Francis Hare—*Members*. W. Wynne—*Secretary*.

**INTERMEDIATE :**

**SUBORDINATE :** The Naib Diwans at Murshidabad and Patna removed ; the Supervisors are termed Collectors, a fixed Diwan being attached to them "in the Superintendency of the Revenues". The Khalsa, or Exchequer removed to Calcutta.

**NOTES :** The Comptrolling Committee of Revenue was constituted by order of the Court of Directors, 23rd. March, 1770. In the general Letter of 28th. August, 1771, the Court express the determination to "stand forth as Dewan and by the Agency of the Company's servants to take upon themselves the entire care and management of the revenues".



1772

SUPREME :

INTERMEDIATE :

SUBORDINATE :

NOTES : 1772, April—Warren Hastings assumes office as President and Governor of Fort William. June—the Committee of Circuit appointed consisting of : The Hon'ble Warren Hastings—*President*. Philip Milner Dacres, James Lawrell, John Graham, Samuel Middleton—*Members*.

1772, September

SUPREME :

INTERMEDIATE : The Comptrolling Council at Murshidabad sit for the last time. The Resident at Murshidabad (S. Middleton) corresponds with the Collectors of Chunakhali, Lashkarpur, Rokanpur, Rajmahal, Purnea, Dinajpur, Jahangirpur, till 1773.

SUBORDINATE :

NOTES : The Chief and Council at Patna retained their jurisdiction as a Comptrolling Council of Revenue until the abolition of the Provincial Council in 1781.

1772, October 13th.

SUPREME : Revenue Board, consisting of the whole Council, first meet.

INTERMEDIATE : Direct dealings with local officers.

SUBORDINATE :

NOTES : In 1775, Edward Baber, the then Resident at the Durbar, became Chief of the Provincial Council of Revenue, and the Resident became merely a Political Agent. The Revenue Board, consisting of the whole Council, was constituted in accordance with the recommendation of the Committee of Circuit at Cossimbazar, 20th. August, 1775.

1773, November

SUPREME :

INTERMEDIATE : Five Provincial Councils created, replace English Collectors and substitute for them native *amils* in the districts. (I) *Calcutta Provincial Council of Revenue*, consisting of two members of Council and three senior servants below Council, with the Ray Rayan as diwan. Revenue jurisdiction :—Calcutta Parganas, Hughli, Hijili, Mysadel, Tamluk, Nadia, Jessore, Mahmud Shahi, Taluks of Kantunagar, Lands belonging "to persons of credit whose constant residence is in Calcutta". (II) *Murshidabad Council of Revenue* : jurisdiction :—Rajshahi, east and west division, Rokanpur, Chunakhali, Lashkarpur, Ichanguripur, Khas Taluks, Rajmahal, Bhagalpur (with annexations from Monghyr)—Currikpure, Gungleterry, Districts under Captain Brooke. (III) *The Burdwan Provincial Council* : jurisdiction :—Burdwan, Midnapur, Vishnupur, Pachete, Birbhum, Ramgarh, Districts under Captain Camac. (IV) *Dinajpur Provincial Council* : jurisdiction :—Dinajpur, Silberis, Purnea, Rangpur.

## PREFACE

[3] The *Essay* which forms the Introduction to the present reprint of the *Fifth Report* is an attempt to trace the stages by which the representatives of the Honorable East India Company built up an effective civil administration in Bengal, while disclaiming almost to the last the possession of sovereign power in India. The story is brought down to the eve of the arrival of Lord Cornwallis in Bengal, and it is hoped that this *Essay* will bring the student up to the point at which a study of the *Fifth Report* may commence.

This *Essay* was composed during a furlough spent in Europe in 1911-1, and a part of it was actually written during the winter of 1912 at Budda Pesth in a delightful room in the Hotel Fiume with a window looking down on the Danube. I had hoped to introduce into the *Essay* much of the special information gained by me while working at the little known District Records of Bengal: but, realising that for the ordinary European student the general outline of the history is still obscure, I found it necessary to exclude a good deal of interesting and even important local detail. Of the obscurity of the subject no better proof could be furnished than is supplied, by the way in which the consultations of the various Bengal Revenue Authorities have been arranged until at least quite recently, at the Record Room of the India Office. The officer who, years ago, catalogued these volumes, could have had to hand no accessible guide to the history and nature of the various governing bodies to which the records relate.

On page [iii] I have cited passages from often-consulted authorities on the subject of the battle of Plassey and its supposed consequences. Perhaps the Plassey legend was never more inaccurately and more dangerously appealed to than when in May 1857, Sir John Lawrence assured General Anson that "Delhi would open its gates on the approach of our troops". "Where", he asked, "have we failed when we acted vigorously? Where have we succeeded when guided by timid counsels? Clive with twelve hundred men fought at Plassey, in opposition to the advice of his leading officers, beat forty thousand men, and conquered Bengal."\*

[4] Since this *Essay* was written, the Government of Bengal has created a Bengal Historical Record Room, and three volumes of the Press List have appeared. From this wise measure great gains may be anticipated.

I would take this occasion to express my gratitude to Mr. B. Champkin, who kindly read through the *Essay* when it was in type-written form, and made many valuable suggestions, and also to Babu Kirannath Dhar who has given the utmost pains to seeing the work through the press and has compiled the Index. To Mr. William Foster, C.I.E., I am deeply indebted for his great kindness to me when I was working at the Indian Office Record Department.

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\* Forrest, *A History of the Indian Mutiny*, Vol. I, p. 57-8.

To the Editor of the *Dacca Review* I am indebted for permission to reprint Chapter III, and to the Editor of the *Calcutta Review* for permission to reprint Chapter VI. Chapters V & VIII have appeared in substance in *Bengal : Past & Present*, of which publication I have been the Editor since the commencement of 1907.

In this *Essay* I trust I have made available for the students the contents of books and manuscripts which if brought together would constitute a very large and costly library. I cannot, of course, hope that my work will stand comparison with the works of experts—works such as Field's *Regulations of the Bengal Code* or Cowell's *Courts and Legislative Authorities in India*. There is, however, in the following work a considerable amount of historical information with which neither Field nor Cowell was familiar. I would welcome the opportunity of putting into a more popular and more readable form the results of the present inquiry, but for the present, in the endeavour to provide the student with the materials he essentially requires, I have been bound to sacrifice many of the attributes of a book that is easily read, and, in consequence, appreciated.

St. John's House,  
Calcutta ;  
9 November, 1916.

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WALTER K. FIRMINGER.

Edrackpore, Baharband, Cooch Behar, Rangamati. (V) *The Dacca Provincial Council* : jurisdiction : Dacca, Sylhet, Attya, Cogmary, Barbazu.

SUBORDINATE : European Collectors recalled and native *amils* sent back to districts.

NOTES : The Patna Council continued making a sixth Provincial Council. Chittagong and Tippera remained under their respective chiefs. The Provincial Councils at Mushidabad, Burdwan, Dinajpur and Dacca consisted of a Chief and four Senior Servants with a native diwan.

1774, January

SUPREME : Governor General and Council.

INTERMEDIATE :

SUBORDINATE :

NOTES :

1781, February

SUPREME : Committee of Revenue. Subject to the Governor General and Council forming the Revenue Board and consisting of five senior servants of the Company. In reality not a supreme body as the making suggests, but replacing Provincial Council.

INTERMEDIATE : *Provincial Councils abolished*, but to obviate evil consequences of too sudden a change, the chiefs were directed to remain in temporary charge of their divisions until recalled by further orders. The khalsa was transferred to the Committee of Revenue. British Collectors *reestablished*. "The plan of managing the whole business of the revenue at the Presidency without the assistance of responsible local agents was soon found to be impracticable, and the withdrawal of the Collectors to have been a mistake. Mr. Shore, writing in 1782, expressed his opinion that the real state of the districts was then less known and the revenues less understood than in 1774. The Committee of Revenue were accordingly instructed (7th. April, 1786) on proceeding upon the ensuing year's settlement, to divide out the Huzuri mahals (that is, paying their revenue direct into the Government Treasury) into Collectorships in such manner that no one Collectorship should exceed in *jama* the sum of eight lakhs of rupees. In pursuance of these instructions, the provinces of Bengal and Orissa were divided into more than 20 Collectorships, exclusive of those which had already been established in Behar, making 36 in all. In the following year a new division was proposed and approved by the Governor General and Council (21st. March, 1787), under which the number was reduced to 23, or, including the salt mahals, 24. Immediately afterwards (8th June, 1787), rules were made for the Collectors and those rules were subsequently re-enacted with the amendment of Regulation II of 1793". (Field, *Introduction*, paragraph 74).

FR.—2

**SUBORDINATE :**

**NOTE :** "On the expiry of the five years settlement in 1777, annual settlements were made year by year with farmers until 1781, with a preference to the old zaminders even though not the highest bidders. But the Provincial Councils were gradually found to be too weak in numbers, and too widely scattered over the country, to be capable of exercising an effective superintendence. Again the pendulum swung back to the system of a direct British agency in the collections, under a strong British central control. Accordingly in 1781, the Provincial Councils were superseded, and a Committee of Revenue (which shortly changed its name to the Board of Revenue) was reconstituted in Calcutta. It consisted of five experienced European servants of the Company and worked under the immediate inspection of the Governor General in Council. The President of several of the Provincial Councils continued to act for a short time as a sort of Commissioner of a Division under its orders and the direct management of the district revenues was definitely entrusted to British Collectors. It should be remarked, however, that although 1781 is the accepted date of the recognition of the change, the process had been going on for sometime previously, and it was not until sometime later that it was completely carried out". (Sir William Hunter, *Bengal MS Records*, Vol. I, p. 19-20). On December 20th., 1776, Messers David Anderson, Charles Croftes and George Bogle were deputed to inquire into the value of the lands, and they reported on 25th. March, 1778. After the expiry of the quinquennial settlement, in accordance with the orders of the Court of Directors, annual settlements were made, the Court of Directors having rejected the proposal for life settlement with the zamindars. In a letter, dated July 1st. 1784, the Governor General (Warren Hastings) in Council expresses surprise "at the settlement being so far advanced, and its having been concluded for five years" and quotes the orders of the Court of Directors forbidding leases to be granted for a term of years, and orders that "the clause lately introduced in the *amalnamas* for Sarkar Saran, limiting the term to one year only, be inserted in all the present year's engagements in Bengal". (Hunter, *op. cit.* p. 98). Pitt's India Act, August 1784, requires the Court of Directors to give orders "for settling and establishing, upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents, and services of the Rajas, Zamindars, Poligars, Talukdars, and other native land-holders should in future be rendered and paid to the United Company". Letter of Court of Directors (22nd. December, 1785). The Government of Bengal to be conducted by :—

(1) The Board of the Council, (2) Military Board, (3) Board of Revenue consisting of one of the junior members of Council and "four others of the most intelligent of the senior servants of the Company", the Governor General being entitled to attend its meetings, (4) Board of Trade. The Court has it in view

"to arrange a final system for transacting business with the zamindars and other land-holders". 1786. The Court sends out final orders :—(1) An assessment be fixed for ten years in every practicable case with the zamindars, (2) At the end of ten years, if proved satisfactory, the settlement to become permanent.

1786, 12th. June

SUPREME : The Board of Revenue constituted. John Stables—*President*. William Cowper, T. Graham, J. Evelyn, John Mackenzie, Richard Johnson—*Members*.

INTERMEDIATE :

SUBORDINATE :

NOTES :

1787

SUPREME :

INTERMEDIATE :

SUBORDINAE : Extract from a letter of the Right Hon'ble the Governor General in Council, 5th. February, 1787 : "The Court of Directors having determined that it will tend more to simplicity, energy, justice, and economy to reinvest the Provincial Chiefs or Collectors with the superintendency of the Courts of Dewany Adawlut, it is our resolution that their determination shall take effect at the commencement of the ensuing Bengal year 1194 . . . The Collectors are to continue to act under your immediate orders in all revenue matters, and to correspond with us on any subjects relating to the administration of justice or the general government of the country. In order to prevent the interference of private banyans, or agents of any denomination, who have no official employ or responsibility, as well as for other considerations, the Court of Directors have ordered that official Dewans shall be stationed with each Collector, upon the principles of the Regulations of 1773. We deem it advisable to permit the Collectors to recommend the persons stationed with them as Dewans, subject, however, to your confirmation, under this special restriction, that the persons so recommended by them shall not serve them as their private banyans, or in any capacity. It is not our meaning that the Dewans are to hold or exercise any authority independent of the Collectors, but in all respects to act under their immediate orders and control. The power of apprehending in criminal cases, which by the Regulations of Justice, is vested in the Judges of the Adawlut in their capacity of Magistrates, will of course be transferred to the Collector in his judicial capacity."

NOTES :

## CHAPTER I. CONQUEST AND SOVEREIGNTY

"Men and nations start with a vague notion of being rich, or great, or good. Each step they make brings unforeseen chances into sight, and shuts out older vistas, and the specifications of the general purpose have to be daily changed. What is reached in the end may be better or worse than what was proposed, but it is always more complex and different."

William James, *Pragmatism*, p. 141.

[i] The battle of Plassey will ever be regarded as a great historical event, yet, when due regard has been paid to all the factors that contributed to the success of the English arms, it will be conceded that the victory of June 23rd, 1757, adds nothing to the splendid military reputation of Lord Clive. Had not Watts' intrigues secured the inactivity of Siraj-ud-daula's reputed allies, the English forces, as they broke cover for the assault, would have been at the mercy of the hordes of cavalry which, under Mir Jafar and Rai Durlabh, from their position in a wide extending crescent, commanded the right flank of the English advance.<sup>1</sup> Clive, it would seem, was scarcely ready to risk his comparatively small army in what would necessarily be a decisive engagement, nor could he bring himself to rely on Mir Jafar's undertakings. His journal shows that he had determined on making a night attack<sup>2</sup>—a manoeuvre which Mughal commanders seem to have regarded as no part of the operations of war, and against which they were wont to make no provision. The gallant rush across the swamps and the fierce onslaught which determined the issue of the day, originated in the order to advance given by Kilpatrick during Clive's temporary absence from the field and contrary to Clive's predetermined plan of action—an order which when once acted upon, could not be recalled.

Hence it would appear that the battle as actually fought did not correspond with any bold design framed by the genius of Clive, and although there must be assigned to him credit for a masterly handling of circumstances not of his deliberate choice, and although it is not to be denied that there was much hard fighting—especially with the Nawab's brave French allies—Plassey cannot rank as a great military achievement.<sup>3</sup> There is nothing at all novel in this apparently depreciatory view. In 1767 in reply to Luke Scrafton, who had ventured to express the belief "nor could he who had defeated the army of Siraj-ud-daula with three thousand men conceive the English should ever keep up an army of fifteen thousand".<sup>4</sup> Holwell, the hero of the Blak Hole incident, writes in a passage, which while it betrays a curious ignorance as to the nature of Mir Jafar's relation to Siraj-ud-daula, yet shows that [ii] in 1767 a former Governor of Fort

1. S. C. Hill, *Bengal in 1756-57* (Indian Records Series), vol. ii, p. 440 and vol. iii, p. 404.

2. Lt.-Col. N. J. Wilson, *History of the Madras Army*. Madras, 1882, vol. i. p. 84.

3. "The rout of Plassey—for it can hardly be called a battle". Sir A. Lyall, *Rise of the British Dominion in India*, p. 107.

4. Scrafton, *Observations on Mr. Vansittart's Narrative*. London, No date.

William did not regard Plassey as a decisive battle. "Let it in the first place be remembered that, howsoever happy in its consequences the defeat at Plassey proved to individual sufferers, the means by which it was obtained should rather be forgot, nor should you blazon that defeat with the semblance of a military act of prowess, which was solely owing to the treason and treachery of Roydulloob (Rai Durlabh) and Mir Jaffier, two of Surajah Dowlah's generals, the highest in office as well as in the confidence of their master ; thus betrayed no glory would have been reflected on our arms, had the defeat been achieved with one fourth of the men then under Lord Clive's command. His Lordship's established character of a brave officer stands not in need of any false lustre to be cast upon it ; nor will you, I believe, Sir, receive his thanks for this wanton folly".<sup>5</sup>

When the actual benefits by treaty which the victory at Plassey secured to the Company are considered, their comparatively trifling character is very striking. Already Siraj-ud-daula, by the treaty of February, 1757, had consented to that purchase by the Company of the *talukdari* rights in thirty-eight villages which the Emperor Farrukhsiyar had sanctioned in 1717—a purchase which the astute Nawab Murshid Quli Khan had prevented. The addition to the English Zamindari of the Twenty-four Parganahs conceded by Mir Jafar was little more than what his ousted predecessor had consented to. Again, as to the Company's trading privileges, it was an essential point in Governor Vansittart's position in 1760 to demonstrate that the victory at Plassey had been productive of no fresh privileges for English commercial enterprise.<sup>6</sup> Luke Sraffton, who played so intimate a part in all Lord Clive's doings in Bengal in the year 1757, states with much truth : "The general idea at this time entertained by the servants of the Company was that the battle of Plassey did only restore us to the same situation we were in before the capture of Calcutta ; the Subah was conceived to be as independent as ever, and the English returned into their commercial character with no other alteration in their situation than a full indemnification for their losses and a small acquisition of territory, which it was thought might defray the military expenses of their garrisons grown too burdensome to be supported by their trade alone ; if the forces were to take the field in support of the Sabah, it was to be at his expense."<sup>7</sup> Seven months after the battle of Plassey, the Naib Faujdar at Hughli had placed a guard round the Company's old factory at that place, and threatened to cut down the English colours.<sup>8</sup>

5. *An Address from John Zephaniah Holwell, Esq. to Luke Sraffton, Esq. in Reply to his Pamphlet entitled—"Observations on Mr. Vansittart's Narrative"*. London, 1767, p. 12-3. I believe it is a mistake to speak of Mir Jafar as one of Siraj-ud-daula's generals. Exception may be taken on this ground to a passage in Mr. J. W. Fortescue's *Military History*, p. 160.

6. H. Vansittart, *A Narrative of the Transactions in Bengal*. London, 1766, vol. i, p. 24 : "With respect to trade, no new privileges were asked of Meer Jaffier ; none indeed were wanted by the Company, who were contented with the terms granted them in 1716, and only wished to be relieved from the impositions to which they had been exposed from the arbitrary power of the Nabobs".

7. Luke Sraffton, *op. cit.* p. 2.

8. Long, *Selections from the Unpublished Records of the Government of India*, vol. i. No. 335.



[III] Despite these facts, however, Clive, covered with undying military glory, in 1762, took his place in the Irish Peerage as Baron Clive of Plassey, and Plassey is perhaps the one name of a battle associated with Clive that the average Englishman readily remembers.<sup>9</sup> In a popular analysis of English History we read : "1757. Calcutta retaken. The battle of Plassey (June 23rd) secures Bengal for England".<sup>10</sup> "Clive's victory in 1757," writes Sir Alfred Lyall, "was followed by the occupation of Bengal".<sup>11</sup> A recently published *Dictionary of Dates* states : "In consequence of Clive's victory at Plassey, 1757, Bengal passed into the possession of the Company, which received formal transfer from the Mogul in 1765".<sup>12</sup> Whatever may be said in criticism of statements of the kind, and after it has been pointed out that Plassey was not a great military achievement and that its actual results by formal treaty were comparatively inconsiderable, it must still be admitted Plassey has, in point of fact, exercised an influence over the popular imagination of so profound a kind that the popular belief, which credits Plassey with the winning of an Empire, is itself a vital factor in history. It is impossible to ignore the fact that the makers of English Empire in India carried in the subconscious depths of their minds a belief which associated the origin of their Raj with a definite act of conquest by the sword—the event of June 23rd, 1757.

In a case which came before the Supreme Court of Judicature, two of the original Justices of that Court determined that "the inhabitants of this town (Calcutta) are all British subjects, because this town was conquered by Admiral Watson and Colonel Clive, but that does not extend to subordinate factories".<sup>13</sup>

The re-capture of Calcutta by armed force in 1757 is an historical event that cannot be gainsaid, but it is a remarkable fact, and one of which the Judges were perhaps ignorant, that, while undoubtedly Calcutta had been taken by arms from Siraj-ud-daula, the English abstained from holding the town on the terms of a military conquest, and instead sought and obtained a *sanad* from the Nawab for the free tenure of their capital. During the whole period covered by the present dissertation the justification of the English occupation in Bengal was, in one way or another, based on the rights of the English as revenue officials under the Mughal Emperors. It was essentially as revenue collectors that the English entered into the actual occupation of the country, and it was the exigencies of the revenue service that compelled them to elaborate a system of Government, and extrude the native sovereignty by a long process of exhausting its functions. The history of revenue administration is thus the backbone of the history of the English occupation of Bengal.

9. As an illustration of the place of Plassey in Indian Native tradition : "For some time an idea had been prevalent amongst the natives that the English Raj was not destined to survive its hundredth year, and that the centenary of Clive's victory on the field of Plassey on the 23rd June, 1757 would see its downfall". Roberts, *Forty-one Years in India*, vol. i. p. 172.

10. Acland and Ransome, *English Political History*, p. 13.

11. Lyall, *The Rise of the British Dominion in India*, 1898, p. 114.

12. *A Dictionary of Dates*. Thos. Nelson & Sons, vol. i, p. 147.

13. Acharya, *Codification in British India*. Tagore Law Lectures. 1912, p. 403.

[iv] It is true to say that neither Plassey nor Buxar were fought to win territorial sovereignty for the East India Company or for the British Crown, although, of course, those battles were fought to maintain on the *musnud*<sup>14</sup> of Murshidabad a ruler powerless to uproot the British factories. Although on some few occasions both the Court of Directors in London and their representatives in Bengal did assume a bellicose tone,<sup>15</sup> and although there were occasions when territorial acquisitions were distinctly coveted, yet we find that the Company was, on the whole, averse to the acquisition of "territory" or "possessions," and their servants in Bengal, unless actuated by some momentous emergency, were unwilling to interfere in native politics or to depart from the position of traders.<sup>16</sup> Many illustrations of the typical attitude of the Company<sup>17</sup> and of its servants in regard to territorial acquisitions might be cited, but for present purposes it will suffice to make use of two only./

(I) In the year 1717, the Surman Embassy to the Emperor Farrukhsiyar—an undertaking which represented many years of preparation, an enormous expenditure of money, and a vast amount of personal courage, selfcontrol, patience, and diplomatic skill—secured for the Company the right to purchase revenue rights in thirty-eight villages in the near neighbourhood of Calcutta.<sup>18</sup> The way in which the Court of Directors acknowledged the benefits obtained for them by their servants is characteristic. In their General Letter of the 3rd February, 1719, they wrote :—

"Notwithstanding the doubts we had, whether it would be our interest to have the thirty-eight towns, if granted, or whether they might not engage us in quarrels with the Moors, if hereafter they should be resolved to take them away, when they found them to flourish, of which we wrote you to have your opinion; we find by para 85, you say they would be of great advantage to us to have them. This we have discoursed Mr. Frankland<sup>19</sup> upon, and of the necessary charge of soldiers to protect them from, or keep off, insults; and having well weighed the expected profit on one [v] side, and the

14. *Musnud*—the throne of the Subahdar or Nazim. It was, in fact, a small stone platform.

15. As, for instance, when in 1636 they ordered their "Colonel" Charnock to sieze and to hold Chittagong.

16. On July 7th, 1712, the Council at Fort William agreed "we write a letter to Patna forbidding them to give a *muchulka* (*muchalka*—agreement), and to let them know that we can't but wonder that they should believe we have been anyways assisting to Mursudcovey Cawn (Murshid Quli Khan), since that it is not the business of merchants, or advisable for us to concern ourselves in the government, we well knowing it must bring our Hon'ble Masters' affairs into trouble".

17. E. g., the renunciation of the acquisition of Ghazipur in 1765. See the *General Letter of the Court of Directors to Bengal*, 16th March, 1768, para 7: "We now repeat our disapprobation of such alliances, which we think no circumstances in our affairs can require, and determined as we are not to aim at any power or possession but what we hold in virtue of the Mogul's grants, or what arise from the office of Duan, and consequently are confined, within the boundaries of Bengal, Bahar, and Orissa".

18. For the story of the Surman Embassy see C. R. Wilson, *Early Annals of the English in Bengal*, vol. ii, part ii. Calcutta 1911.

19. Henry Frankland (a maternal great-grandson of Oliver Cromwell) had resigned the Bengal

rouble that one time or other may be occasioned thereby on the other, we think it best for us to have only so many of them (when you can purchase them) as be contiguous to our three towns above and below them, and those on the other side of the river, within about the same extent of ground as the towns when purchased reach on your side; and we are inclined only to have such of them as lie on or within about two miles of the bank of the river, because, if there should ever be a necessity of defending them from the inroads of some neighbouring petty governor, our soldiers may be harassed by long marches to defend our bounds. We suppose, too, that when Jaffer Cawn, or any other governor, finds you desire only part of what you might insist on, he or they may be the easier to give their consent, and not pick future quarrels; *for as our business is trade, it is not political for us to be encumbered with much territory.* Mr. Frankland assures us, the ground on the other side of you would be of great service to us for repairing our ships, because the river is not rapid there, and as we have said about the dock, that we should find benefit if we could have a good one. We might also add, that if ever we should be forced to the necessity of it, our settlement there would enable us to command the river; but this is not to be so much as publicly hinted at, lest it should alarm the government".<sup>20</sup>

Again, on 16th February, 1721, the Court of Directors wrote: "Remember, we are not fond of much territory, especially if it lies at a distance from you, or is not pretty near the waterside, nor indeed of any, unless you have a moral assurance if it will contribute directly to our real benefit".

(2) A second instance of the Company's unwillingness to accept the responsibilities of Government is afforded by the attitude assumed by the Court of Directors when first informed of Lord Clive's acceptance on their behalf of the *Diwani* of the three Provinces. They wrote: "We observe the account you give of the powers of the King's Dewan, which in former times was the collection of all the revenues or, after defraying the expenses of the army and allowing a sufficient fund for the support of the Nizamut, to remit the remainder to Delhi . . . This description is not the office we wish to execute". The Directors had, in fact, expressed their approval of the refusal of the *Diwani* by Governor Vansittarat on a former occasion.

Returning to the first instance it is to be observed that the "territory" which the Surman Embassy had sought to acquire was, not lands to be held in sovereign power by the Company, but lands to be held on terms of zamindari tenure, that is to say, held under the suzerainty of the Mughal Emperor. The "thirty-eight villages"<sup>21</sup> were to be an extension of the Company's already acquired zamindari of "the Three Towns"—

Service but he returned to Calcutta in 1722 and was Governor, 1726-28. See *Bengal Past & Present*, vol. ix, p. 238. *et seq.*

20. Quoted by Auber, *Rise and Progress of the British Power in India*, vol. i, p. 23-4. Sir Thomas Roe had maintained that the Portuguese and the Dutch had spent more on their territories than they had gained by their trade.

21. i.e., villages not in our present English sense, but as revenue paying units.

Sutanuti, [vi] Calcutta and Govindpur. In consideration of regular payments of fixed sums agreed upon, the Company, as zamindar, was authorised to receive the revenue—dues of the inhabitants, and to retain for their own advantage the profit arising in the difference between the stipulated payment to the Mughal Treasury and the total collected by the Company from the occupants of the soil. In other words, the Company sought to become farmers of the revenues of the thirty-eight villages adjoining their Three Towns. As zamindar the company would not only be empowered to collect land revenue, but also to levy more or less light taxes to defray the cost of the upkeep of roads and bridges, and incidentally to make a considerable profit on the *ghats* (river landing places) and bazars within its jurisdiction. As zamindar it would also have jurisdiction in civil matters, while in regard to criminal cases it would enjoy the powers of a magistrate of police. But, as zamindar, the Company would be within the jurisdiction of the Mughal Empire, and would be responsible, under pain of extrusion from its privileges, for the good conduct of its several offices. To refer to the securing of zamindari rights as the acquisition of “territory” was doubtless an inaccuracy, but it is an inaccuracy which reveals the attitude of their minds in respect to lands placed under their direction. It is necessary, therefore, to take into consideration certain ideas that were undoubtedly in the minds of the Directors at this time and influenced their views of the position in Bengal.

(I) There is a saying which passes as a proverb in Western India, “Madhaji Sindhia made himself master of India by calling himself a patel”. With even better reason it might be said that the East India Company created an Empire by calling itself zamindar. The Company was not a private adventurer, but an incorporated society invested with certain sovereign powers by the Sovereign of Great Britain. Whatever concessions the Company’s servants might acquire, their masters intended to keep by force of arms, if necessary, for the Charter of 1683 empowered the Company “to use martial law for the said forts, places and plantations against any foreign invasion or domestic insurrection or rebellion”. The acquisition of even zamindari rights at once suggested to the Court of Directors in England the contingency of “defending them from the inroads of some neighbouring petty governor,” and in the course of time, after Siraj-ud-daula’s mad seizure of Calcutta, the Company proved that it could draw upon the military resources of the British Crown to insure the retention of concessions obtained from the Mughal Government. The English could show Mughal *sanads* and *farmans* to justify their occupation, but the Directors, when they referred to lands granted in zamindari tenure as “territory” or as “possessions”, clearly intended to indicate that rights obtained by process of Mughal law, would, if necessary, be maintained by military force. If then it be true to state that the English occupation of Bengal was effected by processes of Mughal law, it is necessary to remember that, although no battles were fought to win territorial sovereignty either for the Company or the Crown, yet behind the diplomatic or legal settlement there was a *virtual* conquest of the country, i. e., a supersession of the native military power by the British military power. In this sense it

may be said that Plassey and Buxar "secured Bengal for Enland".

[vii] (2) The views of the Directors in regard to Bengal cannot but have been influenced by their dealings with the two other Presidencies. Bombay, it may be said very briefly, was in the truest sense a "possession", for it had come to the Crown as part of the wedding dowry of Queen Catherine of Braganza, and by the Crown it had been granted to the Company. In Southern India again the Company held lands under grants from such sovereigns as the Zamorin of Calicut, the King of Golconda, the descendants of the Vijayanagar Kings, &c. &c., and the early struggle with the Dutch gave to many of the holdings the nature of occupation by force or international understanding. At a later date, the English possession of Madras would, in the eyes of the Court of Directors, be associated with struggle with the French.

(3) The plan of administering the country under what Clive called "the masked system," that is to say, of administering Bengal in the interests of the Company, while maintaining the sovereignty of the Mughal, might appear to the Company's servants in Bengal a policy well adapted to the season and circumstances of the English occupation; but with its interest in Western and Southern India at stake, the Company had a position to assert at the bar of international law against the French. It is thus remarkable in this connection that, three years before the cession of the *Diwani*,<sup>22</sup> the definition of the territories of the Subahdar of Bengal, Bihar and Orissa had been made the subject of an express agreement between England and France. In our own times we have witnessed European nations securing "spheres of influence" and by appealing to the "doctrine of the Hinterland" in Eastern Africa wide extending strips of that continent have been painted red, blue, or green, on the map in order to denote the claims of the various European powers, although often enough no real effort has been made by the interested nation to establish a genuine administration in the lands claimed. It is thus not difficult to see how the East India Company would, as against the French, claim as "possessions" or "territory" lands which, if within the scope of their influence, were as yet, as against the native Government, no portion of their sovereign domain. The downfall

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22. *The Annual Register for 1762*, p. 244 (State Papers) gives the declaration of His British Majesty's Ambassador Extraordinary at Paris in regard to the limits of Bengal in the East Indies: "the dominions of the Subah of Bengal shall be reputed not to extend further than the Yanon exclusively, and that the Yanon shall be considered as included in the North part of Coromandel and Orissy". On this treaty of 1762 Lord Clive comments as follows: "I flatter myself that every proprietor must receive infinite pleasure in the reflection that they will soon reap the benefit of these great and glorious successes now secured to them by the XIth article of the definitive treaty. Although there are some geographical errors, such as making the Soubah of Bengal's dominions extend near two hundred miles more than they do, to Yanam, and making that place the northern instead of the southern part of the coast of Orissa: the acknowledging Salabut Jing lawful Soubah of the Decan, and Mahomed Ally Cawn lawful Nabob of the Carnatic, had better have been omitted for several reasons, and may be productive of disputes hereafter between the two Companies; yet, upon the whole, the article is very advantageous to the East India Company". *A Letter to the Proprietors of the East India Stock from Lord Clive, to which are added the opinions of the Hon. Charles Yorke and Sir Fletcher Norton on his Lordship's Faghire*, London, 1764, p. 9 and 10.

of the French commercial settlements in 1757 left Bengal, from the point of view of European politics, a sphere in which the English had won a right to exercise [viii] a master's hand, although no great battle had been fought in Bengal with the conscious intention of acquiring territorial sovereignty for either Crown or Company. Under the plea that they were acting within the constitution of the Mughal Empire, the Company's servants built up a system of internal government, and when the walls of their building had reached a certain height, the sun of the British Crown rose to its meridian, and the shadow cast by the setting constellation of the Mughal Empire disappeared for ever. The re-capture of Calcutta, the battles of Plassey, Udwanala, and Buxar, were not creative fiats at which a British Empire in Northern India sprang into being. A reaction has long since set in against the predominantly political treatment of history; and in India, where a dynasty may come and go without even touching the consciousness of the millions of patient toilers, the method of subordinating great economic and social revolutions to battles and treaties is in a special degree suspect. This necessary and essentially healthy reaction, however, must not be carried so far as to exclude vital political truths. History has no knowledge of an actual conquest of Bengal by the sword, and yet the sword, if not actually drawn to secure dominion, was the power that lay behind the civil settlement by the English. The depreciation of "merely military activities" might, if not tested by actual facts, lead us on to a barren paradox. It is true that the English made it their aim not to destroy the native powers—indeed Lord Clive flattered himself in 1765 that he had revived the power of the Mughal<sup>23</sup>—but to maintain native rulers who would nourish, and not crush, a peaceful English Company of merchants; yet, in so doing, the English, step by step, destroyed the military supremacy on which the Mahomedan power in Bengal depended, while at the same time they monopolised revenues for the maintenance of their own troops and garrisons. These stages may be indicated by reference to the treaties :—

With SIRAJ-UD-DAULA, February, 1757.

4. That the Company be allowed to fortify Calcutta in such manner as they shall esteem proper for their defence, without any hindrance or obstruction.<sup>24</sup>

With MIR JAFAR, 15th July, 1757.

2. The enemies of the English are my enemies, whether they be Indians or Europeans.

10. Whenever I demand the English assistance, I will be at the charge of the maintenance of them. <sup>25</sup>

23. "By establishing the power of the Great Moghul, we have likewise established his rights." Letter of the Governor (Lord Clive) and Select Committee to the Court, Sept. 30, 1765.

24. H. Verelst, *A view of the Rise and Progress and Present State of the English Government in Bengal*, London, 1772, p. 140; C. U. Aitchison *Collection of Treaties, Engagements and Sanads*, vol. i, p. 182.

25. Verelst, *Op. cit.* p. 143-4; Aitchison, *Op. cit.* vol. i, p. 186.

[ix] With MIR KASIM, 27th September, 1760.

4. The Europeans and Telingas<sup>26</sup> of the English army shall be ready to assist the Nabob Meer Mahomed Cassim Khan Bahader (i. e. Mir Kasim) in the management of all affairs ; and in all affairs dependent on him, they shall exert themselves to the utmost of their abilities.

5. For all charges of the Company and of the said army and provisions for the field etc. the lands of Burdwan, Midnapoor, and Chittagong shall be assigned etc. With MIR JAFAR, 10th July, 1763.

6. I will maintain twelve thousand horse and twelve thousand foot in the three provinces. If there should be occasion for any more, the number shall be increased by consent of the Governor and Council proportionally to the emergency. Besides these the forces of the English Company shall always attend me when they are wanted.

7. Wherever I shall fix my court, either at Mnrshedabad, or elsewhere, I will advise the Governor and Council ; and what number of English forces I may have occasion for in the management of my affairs, I will demand them, and they shall be allowed me.<sup>27</sup> With NAJM-UD-DAULA, February, 1765.

4. I do confirm to the Company, as a fixed resource for defraying the ordinary expenses of their troops, the chucklas of Burdwan, Midnapoor, and Chittagong, in as full a manner as heretofore ceded by my father. The sum of five lacks of Sicca rupees per month for their maintenance was further agreed to be paid by my father ; I agree to pay the same out of my treasury, whilst the exigency for keeping up so large an army continues. When the Company's occasions will admit of a diminution of the expenses they are put to on account of the troops, the Governor and Council will then relieve me of such a proportion of this assignment as the increased expenses incurred by keeping up the whole force necessary for the defence of the provinces will admit of ; and, as I esteem the Company's troops entirely equal thereto and as my own, I will only maintain such as are absolutely necessary for the dignity of my own person and government, and the business of my collections throughout the provinces.<sup>28</sup>

26. Verelst, *Op. cit.* p. 157. Aitchison, *Op. cit.* vol. i, p. 215. Verelst defines a Telinga thus : a "Sepoy, so called from the country of that name, from whence the first sepoys were probably enlisted".

27. Verelst, *Op. cit.* p. 160. Aitchison *Op. cit.* vol. i, p. 219-20. The 4th article of the "intended" Treaty, dated July 5th, 1763, (Verelst *Op. cit.* Appendix p. 159) runs : "that the troops of the English army shall always be ready to be employed in the service of the Nabob, for the support of his Government, and the defence of his country ; the Nabob on his part shall agree that he will maintain in his pay no greater number of troops than 6,000 horse and 12,000 effective foot, for the protection of his frontiers, and the collection of his revenues."

28. Verelst, *Op. cit.* p. 156-6. Aitchison *Op. cit.* vol. i, p. 224. See C. D. Field *Regulations of the Bengal Code*, Calcutta, 1875, Introduction, p. 4. "But there is another and a very important point of view in which the Emperor's *farman* (1765) may be considered, i. e. with reference to the words 'as the said Company are obliged to keep up a large army for the protection of the provinces', etc. These words conceded to the Company authority to undertake the military defence of Bengal, Behar, and Orissa to exercise military power, and to assume one of the most important prerogatives of sovereignty. In the

[x] The theory that the cession of the *Diwani* or revenue administration to the Company in 1765, left the Nawab in his full position as Subahdar or Nazim has, therefore, to be counterbalanced by the very material consideration that the Treaty of February, 1765, deprived the Nawab of any independent military or financial support for his executive. The theory that the Company had acquired no sovereign rights, and that their administration was within, and not imposed over and above, the Mughal constitution was of value, firstly as it served in some way to obviate interference or jealousy on the part of the French in Bengal, and secondly because it afforded an answer to those who laid it down as an axiom of English constitutional law that British subjects cannot acquire territories save for their sovereign. In this way the system of administering Bengal on the basis of the *Diwani* served as a stay to the interference of the Ministers of the Crown with the affairs of the Company in Bengal. The English, however, had *de facto* assumed the military supremacy in Bengal, and it is this transference of supreme military power which constituted a "virtual conquest" of the country.

The process of depriving the Nawab, the only vital representative of the Mughal empire, of military power is an essential feature in history. In 1765 all land held by the English in Bengal was held by them in some way or another on the basis of the Mughal Revenue Law. The lands granted by Mir Jafar in 1757 were granted to be held on condition of a payment of revenue "in the same manner as the other zeminders". Calcutta itself was a zamindari in respect of which the Company had originally entered into a customary agreement (*muchalka*). The revenues of Burdwan, Midnapur, and Chittagong had been ceded by the Nawab, but the English had not been entrusted with the direct administration of criminal justice within these districts although in actual fact they supervised it. The grant of the *Diwani* was a bestowal of a civil department well understood to be dependent on an executive authority, which still remained vested in the Nawab. This peaceful acquisition of a place within the administration of the Mughal empire was all that such persons as Vansittart and Verelst willed to be concerned with; but to the unbiassed observer of events it must, even in 1765, have been clear that it was not enough to say that the English had acquired merely a certain civil position, since they had been invested with the military power. The Nawab had not only parted with his authority as *Diwan*, but he had made over to the Company the

agreement of 30th September, concluded with Syaff-ud-Daulah he agreed that the protecting of the provinces of Bengal, Behar, and Orissa, and the force sufficient for that purpose be entirely left to the discretion and good management of the Company. A clause exactly similar is to be found in the agreement of the 31st March 1770, concluded with Mobarek-ud-Daulah. It will thus appear that the grant of the *Diwani* in 1765 was a cession to the East India Company of the military Government of the three provinces of Bengal, Behar, and Orissa, of the right to administer civil Justice, and of the complete control of the finances, subject to a payment of twenty-six lakhs to the Emperor and providing the expenses of administering criminal justice and the maintenance of the police. It was in fact, though not in name, a cession of the sovereignty of these provinces, seeing that it was a cession of all the essentials of sovereignty". See *Long Selections*, No. 824 for the authority given to the Resident at the Durbar to reduce the number of the Nawab's "useless military rabble."



defence of his country. <sup>29</sup>

[xi] Whatever the effect of English military supremacy may have been, it is important to notice that it left room for a theory, which exercised the minds of persons of importance right up to the time of the passing of Pitt's India Bill in 1784. Burke, in the days when he was ready to defend the Company against the greed of the English Exchequer, spoke of the Company's possessions as held "in virtue of grants from the Delhi Emperors, in the nature of offices and jurisdictions dependent on his crown". The extent to which this doctrine received the adherence of the Company's servants in 1769 may be gathered from the words of the letter in which Governor Harry Verelst bade farewell to the members of his Council :

"There is a rock, and a dangerous one, which requires the greatest circumspection to avoid. We have stepped forth beyond all former precedent or example. We have the best and most laudable of all arguments to justify our conduct. But it should be remembered that we have reached that supreme line, which, to pass, would be an open avowal of sovereignty. It should be remembered that we cannot be more, without being greater than sound policy allows ; the interests of our employers at home, no less than our national connections abroad, forbid it. If we were before the change, cautious of interfering with the native government, and of awakening the jealousy of foreign nations, we ought now to redouble our prudence. The change itself, supposing the greatest forbearance on our parts, has been an unavoidable tendency to destroy the name of the Nizamut, by which means, what might have been the happiest event for the Company and the Nation, may become the source of perplexities and jealousies ; if not the deprivation of the Company's privileges. There is, however, a middle way, where moderation must guide and continue us ; where we may walk with safety, advantage, and consistence, without danger of too much confinement or too much liberty. Exteriors should be regarded as essentials. Every order should scrupulously wear the sanction of the native government. Our dependence on its indulgencies, our obedience to its commands, our delicacy to its ministers, should appear most conspicuous in all transactions either of business or ceremony".<sup>30</sup>

In February, 1772, Warren Hastings returned to Calcutta, and in the following April, took over the reins of Government from the amiable but inefficient Cartier. Hastings' stay at Madras, it cannot be doubted, had effected a momentous development in his political ideas. He had learned to make use of the bold expression "the British Empire in India," and he had come to see that, however diverse the history of the occupation in the three Presidencies might be in origin and character, the task of maintaining all that had been won, against either the scheming of the French on the one hand, or the power of Haidar Ali on the other, required the assertion of a British Sovereignty throughout all the lands the English could claim as being in any sense their possessions.

29. He had also accepted a nominee of the Company as "Naib Subah and guardian of his household during his minority".

30. Verelst, *View etc.*, Appendix, p. 123.

In Bengal the work [xii] of Warren Hastings was no doubt facilitated by the circumstance that he found a minor established on the *musnud* of Murshidabad—a circumstance which would make it appear natural for the Company as *Diwan* to act in *loco parentis* for the Nazim. It is, however, characteristic of the strength of Hastings that under attack, he claimed no authority from the internal constitution of the Mughal empire for his masterly legislation of 1772-74. In 1775, he claimed that all that had been done in 1772 had been done on the ground that the Nawab had been finally deprived of sovereign power, and had become a sort of ward in chancery to the Company, who were in fact the Nawab's paymaster. It is true, of course, that Hastings both believed and maintained that the revenue administration he reformed and the jurisdictions he set up were revivals of Mughal institutions and not absolutely new creations, and it is true that the Nazim's criminal judicature was left by Hastings to Cornwallis to terminate. It is also true that, although in 1775 Hastings explicitly disavowed any reliance on a Murshidabad sovereign power for the changes made in 1772, there was, between the legislative acts of 1772 and the debates of Council in 1774, a middle period in which, instead of treating the Nawab's sovereignty as evacuated, Hastings merely maintained the right of the Company to supplement it when necessary. On the 10th July, 1773, he wrote : <sup>31</sup>

"Although we profess to leave the Nazim the final Judge in all criminal cases, and the officers of his courts to proceed according to their own laws, forms and opinions, independent of the control of this Government ; yet many cases may happen in which an invariable observance of this rule may prove dangerous consequences to the power by which the Government of this country is held, and to the peace and security of the inhabitants. Whenever such cases happen, the remedy can only be obtained from those in whom the sovereign power exists. It is on these that the inhabitants depend for protection and for the redress of their grievances, and they have a right to the accomplishment of this expectation, of which no treaties or casuistical distinctions can deprive them. If, therefore, the powers of the Nizamut cannot answer these salutary purposes ; or, by an abuse of them, which is much to be apprehended from the present reduced state of the Nazim and the little interest he has in the general welfare of the country, shall become hurtful to it ; I conceive it to be strictly conformable to justice and reason to interpose the authority or influence of the Company, who, as Dewan, have an interest in the welfare of the country, and, as the governing power, have equally a right and obligation to maintain it. I am, therefore, of opinion that wherever it shall be found necessary to supersede the authority of the Nazim, to supply deficiencies or correct the irregularities of his courts, it is the duty of this Government to supply such means as in their judgment shall best promote the due course and ends of justice ; but that this license ought never to be used without an absolute necessity, and after the most solemn deliberation.

[xiii] "In many cases it may not be difficult to obtain the Nabob's warrant for such deviation from the ordinary practice as may be requisite, and it were to be wished

that they could always be enforced by his authority ; but I see so many ill consequences to which this would be liable, both from his assent and from his refusal, that I am rather inclined to propose that every act of this kind be superadded to his sentence by our own Government.

"Although this is my opinion upon the question, as it respects the rights of justice and the good of the people, I am sorry to add that every argument to personal consideration strongly opposes it, having but too much reason to apprehend that, while the popular current prevails, which over-runs every sentiment of candor towards the Company or its agents, it will be dangerous, both to our characters and fortunes, to move a step beyond the plain and beaten line ; and that laudable as our intentions were, we have already done too much. My duty compels me to offer the advice which I have given ; and to that I postpone every other consideration".

In 1775, after the passing of Regulating Act of 1773, and the establishment of the Supreme Court of Judicature, Hastings takes the bolder and more congenial line, which is already indicated in a minute entered by him on the Proceedings of Council of 7th December :—

"All the act of policy cannot conceal the power by which these provinces are ruled, nor can all the acts of sophistry avail to transfer the responsibility of them to the Nabob, when it is as visible as the light of the sun that they originate from our own Government, that the Nabob is a mere pageant without so much as the pageant of authority, and even his most consequential agents receive their appointment from the recommendation of the Company, and the express nomination of their own servants. Even the orders of the Court of Directors of the 29th of August, 1771, which direct the appointment of an ostensible minister to the Nabob, and under which the late arrangements are professedly formed, appear in the printed proceedings of the House of Commons and are open to the view of every nation in Europe".<sup>32</sup>

During the last half-century the students of Anglo-Indian history who have been engaged in defending Hastings' administration against the misinterpretations and calumnies of James Mill and [xiv] Lord Macaulay, have found their time fully occupied with the necessarily elaborate investigation of certain incidents, such, for instance, as the execution of Nuncomar, the Rohilla war, the appointment of Impey to the Sadar Diwani Adalat, the demand on Chait Singh, etc. In this dealing with isolated incidents the general nature of the opposition offered to Hastings' policy has not received adequate

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32. This is in reply to a minute Clayering, Monson, and Francis entered in the Consultations of 18th October, 1775, where it had been said: "The mischievous consequences of departing from this system have been such as the late President and Council might have foreseen. By the want of a person of credit and abilities to fill the station of Minister, and who, supported by our influence and subject to our control, might represent and act for the Nazim during his minority, the Country Government, which it has been the constant policy of the Company to support, has been reduced to such a state of weakness and insignificance as not even to carry appearance of a government either to its own subjects or to foreigners".

consideration. It is perhaps a natural and not wholly unjust judgment on Francis and his allies that the violent and unscrupulous line of conduct they followed should now be ascribed to mere personal animosities and rivalries. It is impossible save for those who have made a special study of the Bengal records, and are familiar with the methods of Francis, to realise how nearly the conflict at the Council Board brought the whole fabric of British Government in India to the ground. In that conflict purely personal motives counted for so much, that it has been natural to credit Francis with nothing else than a desire to build his own good fortune on the ruin of those of his great opponent. This point of view, if it answers to the deserts of Philip Francis, is from the point of view of the historian, become manifestly inadequate. The conflict between Hastings and Francis was one which concerned *principles* and of those principles that of sovereign power was not the least important.

The minute in which Hastings speaks of the Nawab as "a mere pageant" has been quoted. The counter-opinion may best be illustrated by what took place in connection with two causes which came before the Supreme Court of Judicature in 1775—a little after the hearing of the far more famous charge against Nuncomar in connection with the forged Jewel-bond. These causes are here referred to only so far as they reveal opinions held in Bengal on the subject of sovereign power. They are those of :—

(1). Joseph Fowke, Francis Fowke, Maharaja Nuncomar, and Roy Radha Churn for a conspiracy against Warren Hastings, Esq.

(2). Joseph Fowke, Maharaja Nuncomar, and Roy Radha Churn for a conspiracy against Richard Barwell.<sup>33</sup>

On June 21st, 1775, when the hearing of these trials commenced, the following letter<sup>34</sup> was placed before the Court :—

[xv]

Revenue Department  
Fort William.  
20th June, 1775

To Sir Elijah Impey, Knight, Chief Justice,  
and the rest of the Judges of the  
Supreme Court of Judicature at Fort  
William.

Gentlemen,

Enclose we have the honour to transmit you the copy of a memorial, which has

33. See the Report of these trials published "by T. Cadell in the *Straud*" in 1776. After the execution of Nuncomar, Alexander Elliot (a younger brother of the first Lord Minto) was sent home with the manuscript Report of the conspiracy trials and also of the Trial of Nuncomar for forgery. These reports were printed for T. Cadell, and on the title page of the just mentioned trial appears the words "Published by Authority of the Supreme Court of Judicature in Bengal".

34. *The Trial of Joseph Fowke, Francis Fowke, Maha Raja Nundocomar, and Roy Radha Churn, for a conspiracy against Warren Hastings, Esq., and that of Joseph Fowke, Maha Raja Nundocomar, and Roy Radha Churn for a Conspiracy against Richard Barwell, Esq.* London, 1776. p. 2. The case is only

been presented to us by Roy Radha Churn, the Vakeel of the Nabob Mubarick ul Dowla, representing that a bill of indictment has been presented against him in the Supreme Court of Judicature.

As this person is the Vakeel, or public minister of the Subah of these provinces, we conceive him to be entitled to the rights, privileges, and immunities allowed by the law of Nations and the Statute Law of England to the Representatives of Princes. We, therefore, claim those rights in his behalf; and desire that the process against him may be void, and that the persons setting out and executing such processes may be proceeded against in such a manner as the law directs.<sup>35</sup>

We have the honour to be, Gentlemen,  
Your most obedient, humble servants,  
JOHN CLAVERING,  
GEORGE MONSON,  
PHILIP FRANCIS.

The delivery of this letter was followed by proceedings of a more regular character, and on June the 28th, the subject of the Nawab's position as a Sovereign power was discussed with reference to the immunity claimed for his Vakil. Mr. Farrer, the Company's Counsel, said—

"I shall prove the Nabob Mubarick ul Dowlah to be a Sovereign Prince, and that, in all matters, where the laws of England have not altered his situation, he must be a Sovereign Prince. He exercises criminal justice throughout his dominions, and signs the death-warrants, without any control whatsoever from this Government. He has exercised the right of sending Ambassadors from time immemorial. He is possessed of a royal mint, and coins money. He keeps in pay a body of troops. [xvi] From all these circumstances, it is evident, he is a Sovereign Prince. I will also beg leave to mention an observation of the Chief Justice the other day which was 'that the Ambassador of a powerful Prince would be induced to no more privilege on account of his potency.' Therefore, *a fortiori*, the present weakness of the Subah should be no argument why his Ambassadors should not have their privilege; they ought rather on that account to meet with protection from His Majesty's Courts of Justice. If the Nabob is not the Sovereign, I should be glad to know who is. Other European settlements acknowledge the Sovereignty of the Nabob; and I am instructed to say that a Frenchman is now under actual confinement for some misdemeanour committed within the Provinces. The ascertaining that the Nabob is not the Sovereign would be productive of the most dreadful consequences. It would, in all probability, be productive of a war between us and the several European nations who have settlements within the provinces. For if the

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here dealt with so far as it affords illustrations of the opinions of important persons in Bengal on the subject of the alleged sovereignty of the Nawab. The Dutch raised the question of sovereignty point-blank in August, 1785. See *Bengal: Past & Present*, vol ix, p. 252.

35. The Court would of course be powerless to inflict a punishment on the Governor-General, and the persons who served the process in this instance were officers of the Court!

The judges had required an affidavit to this effect from the Governor General and Council.

sovereignty is vested in the Company all the disputes within the Provinces must, of course, be decided by us. As to the Nabob's being *princeps sui juris*, that cannot be verified by affidavit ; it is sufficient if he is received as such by his own subjects." <sup>36</sup>

The remarks of the counsel (C. Newman) <sup>37</sup> for the prosecution need not be quoted at length. He dwelt on the fact that the Subahdar was not, by the constitution of the Mughal empire *princeps sui juris*, but an officer appointed by the Mughal Emperor and removable at his pleasure. He denied that there had been "a lawful Nabob since the death of Sujah Cawn, which happened in 1736" <sup>38</sup> and added that it was well known that Mir Jafar received his appointment from Lord Clive.

"The only presumptive act of Sovereignty vested in, or exercised by, Mubarick ul Dowlah is his signing the warrants of capital convictions in the Presidency Audaulat (*adalat*) Court, before they are carried into execution ; but even this is a delusion ; and political motives in the Company, when they created these courts, induced them to vest this power in him, which will be presently fully explained, and we shall shew the constituting the courts, and administering criminal justice to be sovereign acts of the Company, and not of the Nabob. As to the Nabob's standing army, announced as an instance of the sovereignty of the Nabob, and of which, though we are informed by the Counsel, there is not one jot [*xvii*] of proof, your Lordships will find his army is a very inoffensive one ; for it is no other than his *swarry*, <sup>39</sup> of which the number of sepoys and peons is limited by the Company, nor can the Nabob have occasion for an army, who has no possessions to lose, and who is protected in the place he holds by the forces of another power, which the Company, by the treaty which has been produced, have undertaken to protect him in".

Mr. Brix followed on the same side, and supported his Senior's arguments as to the original dependency of the Nawabs on the Emperors—a fact of history so plain that the wonder is that it should have been thought necessary to labour the point. Affidavits sworn to respectively by Warren Hastings and a high officer of the Company, Mr. George Vansittart, were submitted, and in these it is clearly asserted that the alterations in the administration of justice carried out in 1772 were acts of the Company. Emphasis was laid on the fact that the President had actually appointed a guardian for the Nawab during his minority, and Mr. Vansittart mentioned the reduction of the Nawab's allowances which had been made in accordance with an order from the Court of Directors.<sup>40</sup>

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36. *Op. Cit.* p. 6 & 7.

37. Towards the end of 1781 Newman, Counsel for G. F. Grand in his famous action against Francis, was, in accordance with instructions from the Court of Directors, sent to Madras to collect information relative to the charges brought against Sir Thomas Rumbold. He was one of the unfortunate persons, who in 1782, escaped from the wreck of the *Grosvenor* to perish in the African wilds.

38. Counsel ignores the existence of Nawab Serfaraz Khan who was slain in combat in 1740, when Ali Verdi Khan usurped the Subahdari.

39. *Swarry*, from Persian *swari*, body of ceremonial troops.

40. Hastings expressly asserts that his judicial reforms were carried into execution "without

The dicta of the judges are too lengthy to be quoted here in full. The Chief Justice, Sir Elijah Impey, held that the treaty with Mubarick was in reality "a surrender by him of all power into the hands of the Company". "The Governor's affidavit proves the revenues, their collection, the whole administration of Justice, both civil and criminal, and even the appointment of the officers of the Nawab's household, to be in the Company. Mr. Lane, Mr. Hurst, and Mr. Vansittart, all members of the late Council, depose that all the military is so likewise. They swear that the whole military power of the Province is, and has been for several years entirely under the control of the Company and their representatives. They swear that he performs no acts of sovereignty independent of, and without the consent of, the representatives of the East India Company. Nothing, therefore, is left to Mubarick but an empty title". Sir Elijah then proceeds to deal with the political danger alleged to be involved in a decision denying sovereign power to the Nawab.

Puisne Justice Sir Robert Chambers was chiefly concerned with the question of the alleged immunity of Ray Radha Churn as an "ambassador" from the Nawab—a matter which does not concern the present discussion. He ended, however, by saying "In this state of things . . . I should not think myself obliged, whatever might be my private opinion, unnecessarily to decide, that the King, my master, is not Sovereign of these Provinces, and to decide that he is, I would wish likewise to avoid, because the Parliament seems cautiously to have avoided it, by founding the jurisdiction of this Court over those who do not reside in Calcutta or the inferior [xviii] Factories, on personal not local subjection; and because such a decision might engage us in quarrels with the French and other European nations who have possessions in Bengal".<sup>41</sup>

Puisne Justice Lemaistre concluded his opinion by some remarks in his characteristic style: "With regard to this phantom, this man of straw, Mubarick ul Dowlah, it is an insult to the understanding of the Court to have made the question of his Sovereignty. But it came from the Governor-General and Council."<sup>42</sup> I have too much respect for that body to treat it ludicrously; and I confess I consider it seriously".

Puisne Justice Hyde spoke almost entirely on what to us is the irrelevant question of Ray Radha Churn's position as a Vakil, and concurred with the Chief Justice.

The factious majority on the Supreme Council were determined not to let the Judges off easily, and the following letter,<sup>43</sup> which might be best described by a slang term

consulting the said Nabob, or requiring his concurrence." *Ibid.* p. 13. This is repeated by G. Vansittart, *Ibid.* p. 14. It should be noted that the Nawab was a minor for whom the President was a guardian and *diwan* of the household.

41. Chambers was ridiculed by Hicky, Calcutta's earliest journalist, as "Mr. Justice Pliant" and Francis always seems to have regarded him as a likely supporter. For fluctuations in Impey's view see an article by the present writer, "The Note Books of Mr. Justice Hyde", in *Bengal: Past & Present*, vol. iii, No. 1, January, 1909.

42. By "the Governor-General and Council," Lemaistre, of course, means the majority of the Council, who, by right of being a majority, had claimed for their actions the supreme authority.

43. This second letter to the Judges was, of course, a repetition of an impropriety against which the Judges had already protested.

as "bluff", represents an attempt, not to obtain judicial guidance, but to confront the Judges with the political folly of their decision. Coming from three members of the Supreme Council it has some real importance as an illustration of political thought in Bengal, although it may be believed that the hunting down of the Governor-General, and not the promotion of the Nawab's interests, was the aim dearest to the writers :—

To the Hon. Sir Elijah Impey, Knight,	}	Esqrs., Judges of the Supreme Court of Judicature
Robert Chambers		
Stephen Lemistre		
John Hyde		

Fort William,  
*July 3rd, 1775.*

Honourable Sirs,

We beg leave to transmit, for your information, the translation of a letter, which we have just received from the Nabob Mubarick ul Dowlah ; from which it will appear that he looks upon himself as Soubah of these provinces, and Roy Radha Churn to be his Vakeel. We request you will be pleased to inform us in what light we are to consider those declarations, which we understand have been made from the Bench, publicly denying the Sovereignty of the Nabob, that we may know how to act when any case occurs with respect to the signing of warrants [xix] for the execution of criminals, or what answer we must give to the Foreign Companies, and particularly the French nation, who, the better to assert their claims of independency, maintain with us the same argument which we understand has been used by Sir Elijah Impey, that there is no double government in this country, and consequently that the proceedings of Courts of Dewanny against their subjects, who reside without those places which have been assigned to them by the Treaty of Paris, are direct attacks of the English nation against that of France.

If it be true that the sovereignty of Mubarick ul Dowlah be not admitted by the Supreme Court, we are persuaded that the Chief Justice and the others of His Majesty's Judges will see how important it is, not only to the tranquility of this country, but likewise to the preservation of the peace which subsists between the King and the European Powers who are settled in this country, that we should not be left in doubt as to the right to whom the Sovereignty belongs. The late act of Parliament, as we understand, only subjects such of the natives to the jurisdiction of the British laws, as are, or were, employed in the service of the Company, or of British subjects, at the time when the suit, action, or complaint, against them arose ; from whence we are led to conclude that though the King's Sovereignty were admitted to be extended over those who



are so particularly described, yet it does not follow, according to our idea, that it includes the rest of the natives of Bengal, Bahar and Orissa.

We are, Honourable Sirs,  
Your most obedient, humble servants,  
J. CLAVERING,  
GEO. MONSON,  
PH. FRANCIS.

The trial of Ray Radha Churn thus illustrates the position taken by at least one person of eminence, Philip Francis, in regard to the question of the Sovereign power in Bengal in 1775. In the year following, Francis produced his famous plan for the Revenues of Bengal. In the *Plan*, he dwells upon the manifold contradictions in principle and in practice which stand in the way of a statesmanlike solution of existing difficulties. On the one hand "the Company's right as Duan, to collect the revenues and to insist on the payment of duties (from which, they tell us, they cannot recede) is founded on a grant from the Emperor. They coin money in his name, while they make peace and war in their own".<sup>44</sup> On the other "we have a Supreme Court of Judicature resident at Calcutta whose writs run [xx] through every part of the three provinces in his Majesty's name, indiscriminately addressed to British subjects, who are bound by their allegiance, or to the natives, over whom no right of sovereignty on the part of the King of Great Britain has yet been claimed or declared". He then goes on to urge :

"While these contradictions are permitted to subsist, the actual government of these provinces must continue to be an arbitrary succession of acts of power without right, flowing from different sources and excluding every idea of unity, regularity, or system. It would be absurd to propose a plan for the internal government of the country, without taking it for granted in the first instance that ere long it will be determined, whether the natives of Bengal are to acknowledge one Sovereign, and be subject to one Government ; or whether they are to be left in their present state, divided between their native prince, claiming the rights of Subadar, whose government they tell us 'they are engaged by solemn stipulation to support'—the Emperor, whose rights, as Lord Paramount, inherent in the constitution of the Empire, have been for a number of years acknowledged by the Company ;—the Presidency of Fort William, who hold by the sword by agreement with the Nabob, as they do the purse by grant from the Emperor ; and lastly a Court of Judicature, exercising an unlimited jurisdiction through the provinces, in the name of the King of Great Britain".<sup>45</sup>

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44. *Original Minutes of the Governor-General and Council of Fort William on the Settlement and Collection of the Revenues of Bengal, with a Plan of Settlement, recommended to the Court of Directors, in January, 1776.* By Philip Francis, Esq. London, p. 27-8.

45. Francis, *Minutes of the Governor-General*, etc. p. 28. Another incident, connected with the controversy of the alleged sovereign rights of the Nawab, took place when Hastings declared the Nawab to be of age, and in consequence removed Mahomed Raza Khan from the position of Naib Subah to which

Enough has now been instanced to show that in Hastings' day there was a currency for the doctrine that the Company held its possessions "in virtue of grants from the Delhi Emperor, in the nature of offices and jurisdictions dependent on his crown". In 1774 Hastings had repudiated the obligation of making to the Emperor the annual payment of twenty-six lakhs of rupees which, according to Lord Clive's agreement with Shah Alam, was due to the Emperor as the Emperor's share of the revenue.<sup>46</sup> Consistently with their position, Francis and his allies [xxi] condemned this repudiation as unjust in itself and cruel in its consequences.

The opinion in favour of the possession of sovereign rights by the Nawab, thus vehemently urged by the majority at the Council Board, serves to show how little conscious the English were of any conquest of the country by English military power. Francis and his party in reality carried on the traditional views of Verelst: while, on the other hand, Hastings' whole administration is an open denial of Verelst's assertion: "we cannot be more without being greater than sound policy allows". Nothing can be clearer than Hastings' avowal that his constructive reforms of the judicial system in 1772 had been made "without consulting the said Nabob, or requiring his acquiescence". If by "conquest" is meant a transference of sovereign rights as a consequence of the supersession of one military power by another, it is not overstraining language to speak of English rule in Bengal as being established by virtue of a conquest.

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he had been appointed, in accordance with the vote of Clavering, Monson, and Francis in 1775. I have not considered it necessary to deal with this incident in the text, as my object of illustrating the position of the Francis party is sufficiently fulfilled by the extracts from the Ray Radha Churn cause. It is in relation to this incident, that Burke, if he be the author of the *IXth. Report of the Select Committee, 1782*, has written a passage which is rather remarkable in connection with what was claimed for the Nawab by the Francis party in 1775: "When the Duanny (or universal perception and management of the revenues) of Bengal was acquired to the Company, together with the command of the army, the Nabob, or Governor, naturally fell into the rank, rather of a subject than that even of a dependent prince. Yet the preservation of such a power in such a degree of subordination, with the criminal jurisdiction and the care of the public order annexed to it, was a wise and laudable policy. It preserved a portion of the government in the hands of the natives; it kept them in respect; it rendered them quiet in the change, and it prevented that vast kingdom from wearing the dangerous appearance, and still more from sinking into the terrible state, of a country of conquest."

46. This repudiation was in accordance with the instruction of the Court of Directors in a General Letter to Bengal dated 11th. November, 1768. The Emperor had become a tool in the hands of the Marathas.



## CHAPTER II.

### THE BROKEN-DOWN MUGHAL GOVERNMENT

In the year 1575, Akbar's general, Munim Khan, had defeated Daud, the last independent Mussalman King of Bengal at Tukaroi,<sup>1</sup> in the neighbourhood of Mughalmari. The conquered prince was for a time entrusted with the government of Cuttack ; but, in 1576, he broke into rebellion, and, in the following year was captured and put to death. Munim Khan's invasion of Orissa in 1573 has been described as "one of the most daring exploits performed during Akbar's reign", and it is asserted that the Emperor chose the name Atak (Attock) for his fortress in the north because the word rhymed with Katak in the south. In 1580, the Mughal military commanders, who had been established in the newly acquired provinces of Bengal and Behar mutinied, and the task of their subjugation was entrusted to the Hindu Rajah, Todar Mal, who had been the lite and soul of the expedition of 1575.

For the government of the newly annexed provinces, Akbar provided Commanders-in-chief who appear in our history under the titles of Subahdars or Nazims. It was ordained that the Emperor's viceregent "should not consider himself as fixed of residence, but hold himself ever ready for a summons to the Presence" [i. e. the Imperial Court], and that "he should not subvert ancient families, but let an illustrious ancestry redeem unworthy successors". As the Subahdari of Bengal was often entrusted to either princes of blood or to great court magnates, the term of their office in what was euphemistically called "the Paradise of nations" was not unusually regarded by them as the golden opportunity of acquiring the resources necessary to enable them to take each his own part in the fratricidal struggle for the throne which would be certain to follow upon the death, or even the report of the serious illness, of the Delhi Emperor.

Beneath the military commanders-in-chief ranked the faujdar. The Emperor, the *Ain-i-Akbari* states, "apportions several parganahs to the care of his trusty, just, and disinterested servants, appreciative of what is equitable, and faithful to his engagements, and him they style by the above name. As a subordinate and assistant he holds the first place. Should a cultivator or collector of the crown lands or an assignee of

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1. Blochmann : *The Ain-i-Akbari* by Abul Fazal Alami vol 1, pp. 375-76 ; Stewart (*History of Bengal*) gives Bajura as the name of this battle field, and wrongly places the site in the neighbourhood of Cuttack. See also Beames : "Notes on the History of Orissa," *Journal of the Asiatic Society of Bengal*, vol. iiii, 1883.

government estates prove rebellious, he shall induce him to submit by fair words ; and, if this fail, he shall take the written evidence of the principal officers, and proceed to chastise him. He should pitch his camp in the neighbourhood of the body of rebels, and at every opportunity inflict loss upon their persons and property, but not risk at once a general engagement. . . When he has captured the rebel camp, he must observe equity in the division of the spoil, and reserve a fifth for the royal exchequer”.

[ xxiii ] Bengal in Akbar’s time was but very incompletely conquered : and not a century later it remained, as Bernier described it, a “quantité de pais dont le Mogal n’est pas trop le maitre”. It may be taken for granted that Thevenot in 1666 had but few materials from which to fashion a reliable estimate of the character of the more ancient government, but he observes : “the country was kept in a far better order under the Patun Kings, before the Mahometans and Moguls were masters of it, because then they had uniformity in religion. It has been found by experience that disorder came into it with Mahometanism ; and that diversity of religions have thus caused corruption in manners.”<sup>2</sup> About two years after the military rebellion of 1580, a faujdar, who had assumed an almost regal state in his particular district in Bengal is memorialised by the following inscription :

“This lofty mosque was built during the time of the great Sultan, the chief of the Sayyids, Muhammad Ma’cum Khan. May God perpetuate his kingdom for ever, O Lord, O Thou who remaineth. By the high exalted Khan, Khan Muhammad, son of Tai Muhammad Khan Qaqsul, in the year 989.”<sup>3</sup>

As the character of Akbar’s occupation of Bengal was predominantly that of a military occupation, it is important to notice that, while the faujdars had the means of providing for their own remuneration, the troops employed, according to the inveterate and vicious habit of the Mughals even in their best days, were left in arrears of pay dependent on the exactions they could wring from the terror-stricken cultivators. Clive was but exposing the immemorial practice of the Mughals, when, in 1757, he wrote : “there were great arrears due to the army by Suraj-u-Dowla as well as by Meer Jaffier, and the sums amounted to three or four millions sterling. It is the custom of the country never to pay the army a fourth part of what they promise them ; and it is only in times of distress that the army can be paid at all, and that is the reason the troops always behave so ill”<sup>4</sup>. It was not always the only too human dislike of parting with ready money, nor indeed the scarcity of that article which led to this abuse : the motive for which lay in the supposition that a soldier with a considerable amount of pay standing to his credit would be less likely to desert than one who had received his pay up to date.

2. Thevenot : *Les Voyages en Europe, Asie et Afrique*. Newly done into English. London, 1689, part iii, p. 68. For some observations on the ancient Hindu Kings, see Beveridge : *Bakarganj*, p. 373.

3. Blochmann : *Op. cit.* vol. 1, p. 621. The ruins of the mosque in question are to be found at Chatmohar, near Dighaputi.

4. *1st Report from the Select Com.*, 1773, p. 155. See also Scrafton : *Reflection on the Government of Indostan*. Reprint. 1770. pp. 23-29.

This, of course, applies to the soldiers who drew their pay in cash (*nakd*). When the Mughal conquest was carried into frontier lands, such as Rangpur, Sylhet, Chittagong,<sup>5</sup> etc. the practice was followed of making grants of land revenue free on terms of military service: but the English, in effecting [ xxiv ] their occupation, experienced an initial difficulty in dealing with the "nugdees",—the idle and discontented military rabble gathered round the palaces of the territorial magnates.

In the year 1583 Todar Mal was appointed diwan or vakil, and commenced, or perhaps took over from a predecessor, the famous financial measures accounted for in the third book of the *Ain-i Akbari*. In this work Bengal is divided into nineteen local governments or sarkars, and each of these is again divided into a number of mahals or revenue estates. The situation of many of these mahals or parganahs can still be traced,<sup>6</sup> but Todar Mal's division has been obscured partly by the rise of the great zamindari estates of the eighteenth century, and partly by the division of Bengal into chaklas under the Nawab Murshid Quli Khan.<sup>7</sup> Todar Mal's lists not only fail to give a complete account and omit districts now well known, but they also include districts which are known to have been left unsubjugated by Akbar's generals. The appearance of scientific financial dealings suggested by the statistics of the *Ain-i-Akbari* may thus be most misleading.

The early Mahomedan conquest of Bengal, which, for three hundred years had been maintained by a line of independent monarchs, of whom Daud was the last representative, was probably not of so clement a nature as that of Akbar. The story is told that 'Ala-ud-din Khiliji (A. D. 1227) once asked a learned Qazi: "From what description of Hindus is it lawful to exact obedience and tribute?" The Qazi replied: "Imam Hanif says that as heavy a tribute as they can bear may be imposed on infidels; and it is commanded that the Jaziya and Khiraz be exacted to the uttermost farthing, in order that the punishment may approach as near as possible to death". "You may perceive", remarked 'Ala-ud-din Khiliji, "that without reading learned books, I am in the habit of putting in practice what has been enjoined by the Prophet". In certain parts of Bengal some such extreme doctrine of Islam may at times have been put into force, and the disappearance in Bengal, as compared with other provinces, of certain vestiges of Hindu village institutions may perhaps be accounted for in this way. The early Mahomedan power, however, was compelled to leave room for the existence of extensive Hindu states, within its borders, and more especially on the frontiers.

In the year 1776, Philip Francis set forward his conception of Akbar's policy as

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5. "The garrison troops thus constantly maintained for the protection of the district received their pay in small allotments of land, which, when the military establishment ceased to be of use, and other assigned lands were assumed for the benefit of the exchequer, became so many distinct and separate zemindaries. ... The original immigrants arriving for safety's sake in companies, the leader of each company came to possess as many patches of land as he had followers, or more." Cotton: *Memorandum on the Revenue History of Chittagong*, pp. 3-4.

6. See Hunter: *Statistical Account of Bengal*, vol. 1, pp. 348 et seq.

7. Grant: "Analysis of the Finances of Bengal," *5th Report*, 1812, p. 283.

the model which should be adopted by the English in Bengal. He can have had but a second-hand and imperfect acquaintance with the *Ain-i-Akbari* to which he made his appeal, for presumably he had no knowledge of Persian, and Gladwin's translation (a paraphrase) of the work of Abul Fazl, based on a single text was not published till 1783. With the historical facts attesting the superficiality of Akbar's conquests he was necessarily unacquainted. Ignoring the fact that land revenue in India represents the immemorial claim of the ruler to a share in the grain on the harvest floor of the cultivator, and regarding the Indian land revenue as a "tribute" claimed by right of conquest, Francis maintained that its assessment should be regulated by an estimate of the actual expenses of Government [xxv] and not by any strict or even conjectural valuation of the lands or their produce. Thus he contended :

"The moderation of the tribute imposed by all the Mahomedan conquerors, and the simplicity of their method of collecting it, accounts for the surprising facility with which they retained possession of their conquests. The form of their government was despotic ; but, in fact, it was not oppressive to the mass of the conquered people. In general, they introduced no change but in the army and in the name of the sovereign. With respect to the collection of the revenues, the system of the present government is, upon principle, directly the reverse of what it ought to be ; and, I believe, such as never was adopted by any other government. Instead of leaving the management to the natural proprietors of the lands, and demanding from *them* a fixed portion of the produce, we take the management upon ourselves, and pay *them* a tribute. Government stands in the place of the Zemindar".<sup>8</sup>

It was the belief of Francis that Akbar recognised "the right of the Zemindars, the ancient proprietors of the soil", and that Todar Mal "formed the jumabundy (*jamabandi*) or establishment of rent of all Hindostan on the principle of leaving the lands to their proprietors, the Zemindars, and of establishing a moderate permanent jumma or quit-rent to be paid by each of them to government."<sup>9</sup>

On the assumption involved by this theory, we might picture Akbar or his Viceroy, after the defeat of the insurgent forces, receiving the chiefs of Bengal into the Mughal Empire, and bestowing on them full legal possession of the lands formerly held by them, on condition of the payment of the land revenue. A different and probably more

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8. Francis : *Minutes of the Governor General and Council*, etc., pp. 30-31. Francis writes : "In the policy and justice of the Mogul Government we had an example before us, which ought to have been followed. It will appear that the Mahomedan conqueror was wise and equitable enough to limit his own power over the people, whom he had conquered, that he demanded from them a *fixed* tribute ; that it was moderate in the first instance and never varied : that he thereby gave them a security in their property against the rapacity of his ministers and representatives ; and that this was a real security as long as the Mahomedan government subsisted at Delhi. In effect, it was equally a security to the Prince against fraud, and to the people against oppression. *They* knew what they had to pay, and *he* knew what he had to receive." *Ibid.*, p. v.

9. *Ibid.*, p. 30.

historical view of what took place has been advanced by the late B. H. Baden-Powell. His view is as follows : "In consequence of the defeat of the local rajas of Bengal, the territories of a number of more or less inconsiderable Hindu states, whose chiefs had been either taken captive or slain in battle, were directly assumed by the Conqueror and were denominated Khalisah or Exchequer domains. In addition to these estates, there were those of but half-subjugated chieftains, and these persons were left in possession of their countries, with rights which would, to the European students at least, suggest essential elements of sovereign power, taxation and the administration of justice. What the conqueror secured for himself was the *zamindari* of all acquired territory, i. e., the right to [ xxvi ] the land revenue. In the case of Khalisah lands, the revenue would be collected without the intervention of the local landed magnates : in the case of the surviving chieftains the bulk of the revenue would be remitted by them to the Mughal treasury, according to the terms made with them. The Zamindari of these chieftains was thus a delegated power from the Conqueror, who himself was the supreme Zamindar of the Empire. Thus, in relation to the revenues, the chieftains were what at a later date were known as farmers ; that is to say they undertook to pay into the State treasury lump annual sums representing the revenue assessment of their districts, and the difference between what they actually collected from the cultivators and what they paid by terms of their contract with the Sovereign was their profit" <sup>10</sup>

The actual dealings of Akbar's revenue officials with the Hindu Rajas in Bengal is a subject lost in obscurity. The division of the country into sarkars ignores the existence of ancient Hindu states or principalities. That such principalities existed in Bengal in Todar Mal's time is well known, but although, Nadia for instance appears in the *Ain-i-Akbari* as a mahal, we learn nothing from the *Ain-i-Akbari* of any Nadia raja. In Aurangzib's time the zamindari sanads obtained and paid for by Hindu rajas can be found, but we have no evidence to show that Todar Mal had any direct dealings with such potentates as the Rajas of Bishnupur, Panchet, Tipperah, etc. It is certain, on the other hand, that from the time of Daud's defeat in 1575 to the end of Akbar's reign great changes were taking place, and great landed estates were coming into existence. Of these the most striking example is afforded by the principality of the renowned Bengali hero, Pratapaditya, one of "the twelve suns of Bengal". This principality had its origin in that adventurer's revolt from his father, Vikramaditya, who, a little time before Daud's removal from Gaur, had established a city of refuge amid the swamps of Jessore. The present rajas of Jessore, or Chanchra, trace their descent from Bhabeshwar Rai, a Hindu, who came to Bengal with Azim Khan in 1582, and was put in possession of parganahs taken from Pratapaditya. A large portion of Pratapaditya's kingdom lay in the district afterwards known as the 24 Parganahs, and although a few of those parganahs are named in the *Ain-i-Akbari*, yet the district as a whole was unknown to those who furnished information to Todar Mal.

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10. *Asiatic Quarterly Review*, July, 1894. B. H. Baden-Powell : "Is the State the Owner of all Land in India ?"



The great zamindari estates best known to Hastings and Francis had not come into existence when Todar Mal was at work. The beginnings of the Burdwan raj took place in the time of Abu Rai, a Kshatriya, who came to Bengal from the Punjab, and was appointed chaudhuri and kotwal of Burdwan about the year 1690. Sitaram Rai, according to traditional accounts, was originally sent by the Mahomedan authority to collect arrears of revenue from certain defaulters. In one way or another he created for himself a vast estate, and then in turn became defaulter <sup>11</sup> His capture and consequent execution must have taken place some time before 1717, in which year the English in Calcutta were, to their alarm [ xxvii ] called upon to produce the persons of his widow and children. <sup>12</sup> The beginnings of the greatness of the Natore family commence with the dismemberment of Sitaram's estate. The history of the connection of this family with Rajshahi is of great importance, on account of the magnitude of this rapidly acquired estate. "In the year 1728 the zamindari of Rajshahi extended from Bhagalpur on the west to Dacca on the east, and included a large subdivision called Nij Chakla Rajshahi, which stretched across Murshidabad and Nadia as far as the frontiers of Birbhum and Burdwan. Rajshahi thus comprised an area of 13,000 square miles, and paid a revenue of 27 lakhs."<sup>13</sup> In a *Narrative of the Transactions in Bengal*, <sup>14</sup> written by a native historian for the edification of Governor Vansittart, it is stated :

"Odynarain, whose family had long enjoyed the Zemindary of Rajeshay, was so distinguished by his abilities and application to business, that Moorshed Kuly Khan entrusted him with the business of the Khalsah collections, and placed under him Gholam Mohammed, Jemidar, with 200 horse. The Jemidar having demanded his pay in a riotous manner, Moorshed Kuly Khan sent Mohammed Jan, one of his cheelahs, <sup>15</sup> with troops to punish him. A conflict ensued near the Rajebarri, <sup>16</sup> in which the Jemidar was killed, and Odynarain, dreading Moorshed Kuly Khan's displeasure, destroyed himself. The zemindary of Rajeshay was then conferred upon Rajewan and Ranookhewa, two zemindars on the east side of the Ganges, in consideration of their having been more exact in the payment of their rents from the other Zemindars of Bengal."<sup>17</sup>

Another version of the story is given by Sir John Shore in his minute of the 2nd April, 1788. According to this account the small zamindari of Bungachi was bestowed, about the year 1707, upon Raghunandan, son of Kamdeo, a Brahmin, in the name of Ramjewan, in consequence of the neglect of the former zamindars to discharge their revenue dues. Four years later, Raghunandan acquired the zamindari of Bhetoreah, on

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11. Westland : *District of Jessore*, p. 25 et seq.

12. Wilson : *Early Annals of the English in Bengal*, vol. ii, pt. 1, p. 166

13. *Imperial Gazetteer*, vol. xxi. p. 162.

14. Translated by Francis Gladwin, Calcutta, 1788, pp. 61-63.

15. "Cheelah—a slave born in the house." [Translator's note.

16. Rajbari : Raja's house. <sup>17</sup> See also *Calcutta Review*, vol. lvi.

the demise of Rani Sarbani, who had left no heirs. In 1713 he was permitted to annex Rajshahi, as a reward for his capturing Uditnarayan. On the death of Sitaram Rai, Raghunandan acquired the zamindari of Bhushna. In 1713 Ramjewan, in whose name the zamindari had been secured, died, and in 1733 his adopted son, Ramkanta was confirmed as zamindar by sanad. The famous Rani Bhawani was Ramkanta's widow.<sup>18</sup>

In the same minute, Shore asserts that "most of the considerable zamindars in Bengal may be traced to an origin within the last century [xxviii] and a half." James Grant, in his *Analysis of the Finances of Bengal*, had indeed gone so far as to write of "the universally new creation of that necessary class of officers denominated Zamindars in the course of Jafer Khan's [Murshid Quli Khan's] viceroyalty." This, however, was an exaggeration, and Grant's references to the family histories of the great zamindars of his time were based on misinformation. It is certain that the zamindaris of Dinajpur,<sup>19</sup> Burdwan, Nadia,<sup>20</sup> Lashkarpur,<sup>21</sup> Naldanga<sup>22</sup> were founded before Murshid Quli Khan became diwan of Bengal.

A revenue assessment is said to be 'rayatwari' when made with the ryots [raiats] or cultivators; and 'zamindari' when made with an individual contracting with the ruler for the realisation of the revenues as assessed.<sup>23</sup> It has been asserted that Todar Mal's assessment was rayatwari. The *Ain-i-Akbari* gives an account of the functions of the collectors of revenues who are quite distinct persons from the faujdars, but under the early Mughal system in Bengal it was the faujdars who were ultimately responsible to the diwan for the realisation of the estimated revenue. The figures of the *Ain-i-Akbari* perhaps were intended to serve as a guide to what might be expected in the way of revenue, and to afford a test by which the faujdar's diligence could be appraised. The elaborate principles for assessing the lands by the character of the produce could only have been applied in the case of districts well beneath the eye of the supreme authorities, and it is therefore impossible to believe that these principles could have been brought into

18. Long : *Selections*, No. 693 : Westland : *Op. cit.*, p. 48.

19. *Calcutta Review*, vol. lv. Art. The "Dinagepore Raj" by E. Vesey Westmacott.

20. *Calcutta Review*, vol. lv. Art. "The Nadiya Raj."

21. *Calcutta Review*, vol. lvi. "The Thakurs, or rajas of Patiya, the oldest territorial aristocracy of Rajshahi, are said to have acquired it from Lashkar, an officer of Murshidabad." The name Murshidabad commemorates Murshid Quli Khan who made that place his capital, but it was of importance long before Murshid Quli Khan's time. It had a resident Faujdar in 1676. *Vide Temple : Diaries of Streysham Master*, vol. 1 p. 30.

22. Westland : *Op. cit.* p. 48. The founder of the Naldanga family was Ranabir who came into possession of his estate having "exterminated the family of an Afghan zamindar" by the power of his own arm.

23. Banerjee : *A Study of Indian Economics*, p. 168. "When the revenue is assessed by the State on an individual or community owning an estate and occupying a position identical with, or analogous to, that of a landlord, the assessment is known as *zamindari*; where the revenue is imposed on individuals who are, or represent, the actual occupants of holdings, the assessment is known as *rayatwari*. Under either system, there may be rent-paying sub-tenants."

operation in little known districts of a partially conquered province. It cannot be supposed that the total sum of the revenue, derived from Bengal in Akbar's time, can be arrived at by the simple process of adding up the figures given in the *Ain-i-Akbari* as the revenue yield of the several sarkars.

It is doubtful whether the revenue so assessed was ever collected and paid into the Imperial treasury, for the assessment, as it appears in the *Ain-i-Akbari*, includes Chittagong for instance, which was not at the time a Mughal possession, and Orissa, which lapsed into the hands of the Afghans before the close of Akbar's reign. It is vain to argue with Francis that, because the total of Todar Mal's assessment does not differ much from the total of Shuja Khan's there was little or no variation in the assessment. It [xxix] may, however, be admitted that Todar Mal's assessment embodies information collected by him from the Qanungos and that this information was in some instances tested by measurements of the lands. "At what portion", writes Sir John Shore (Lord Teignmouth), "he estimated the Sovereign's share. I know not. One account in my possession, of unknown authority, states that he regulated it, according to the situation of the land, and the quantity of the soil, by the labour and expense attending the cultivation of it, in different degrees of proportion, from one-half to one-eighth of the estimated gross revenue. This account is at least probable."<sup>24</sup>

Francis in his *Plan* goes to explain :

"A roll or record was formed of this jumma, which in Persian is called *Tumar*, from whence the settlement of Toorell Mall (Todar Mal) is called the *Tumar Fumma*, a roll of the rent ;<sup>25</sup> and *Ausil* (*Asal*) or original jumma, with reference to all subsequent alterations and additions.

24. Sir J. Shore : Minute of April, 1788 in J. H. Harington's *An Elementary Analysis of the Laws and Regulations*, Calcutta, 1814-15, vol. II, pp. 233-34. This valuable minute is not included in the *Fifth Report from the Select Committee of the House of Commons on the affairs of the East India Company*, 1812. Shore suggests that Akbar may have been influenced by the "Institutes of Timur, and quotes a translation by Major Davy and Prof. White. In the passage quoted an *hast-o-bud* is ordered "if the subject should not be contended." This is interesting as Francis contended that valuation by *hast-o-bud* was unknown to the Mughal practice. Shore had, as the following extract from a letter (written by him to C. W. Boughton Rous, Feb. 22nd, 1789) shows, made a minute study of the mss. of *Ain-i-Akbari* : "Mr. Grant's chief foundation for his *Rubba*, or 'Fourth', arises from his mistaking *Rubba* for *Reia* 'produce' ; although the Tables, which follow the passage where the word is mentioned, shew the proportion to be in one-third. I compared four copies of the *Ayeen Akbary*, and I found *Reia* in all. The merit of his production is certainly great, but is so obscured by his style that it requires more penetration, and attention than I can give to it to discover his meaning." *Life of Lord Teignmouth*, vol. I, p. 169.

25. It is unfortunate that writers did not call land revenue simply land revenue. The habit of calling it "rent", "quit-rent" & "land tax" tended to obscure the subject. Land revenue in India is something *sui generis*. It presents the ancient Hindu right of the King to a portion of the grain on the cultivator's floor. The Mughal Empire took over this institution and provided a system of

"A Tukseem (*Taksim*), or division account of the whole Soubah, was formed at the same time, shewing the constituent parts of each zemindary, such as pergunnah (*parganahs*), villages, etc., with the proportion of the general quit-rent payable by each. The hereditary office of the Canongoes [*Qanungos*] was established to keep the accounts of the Tumar and Tukseem. The authority of these records is still known and respected. In all sales and transfers of property among the zemindars, the new sunnuds are taken out on the Tumar Jumma. The Jaghiers of the royal officers or Munsubdars were always granted as portions of this Jumma. The *Resum* [*rasum*,] or fees of the Canongoes are still calculated from thence, and the Tukseem is referred to, even at the present time, to decide claims or disputes regarding the limits of landed property."<sup>26</sup>

[ xxx ] To these assertions Warren Hastings replied :

"The ancient Tumar and Tukseem (*Taksim*) or distribution of the land rent, which was formed about 220 years ago, has long ceased to serve as a rule. Under the old government, this distribution was annually corrected by the accounts, which the zemindars and other collectors of the revenue were bound to deliver into the office of the Canongoes, or King's registers, of the increased or diminished rents of their lands and of the amount of their receipts. But the neglect of these institutions, the wars and revolutions which have since happened in Bengal, the inundations of rivers, the increase of cultivation in some parts of the province, and the decrease in others, and the unequal depredations of the famine,<sup>27</sup> have totally changed the face of the country, and rendered the Tumar rent-roll a mere object of curiosity. The land-tax has, therefore, been collected for these twenty years past upon a conjectural valuation of the land, formed by the amount of the receipts of former years, and the opinions of the officers of the Revenue, and the assessment has accordingly been altered almost every year."<sup>28</sup>

A far more radical objection to Francis' reliance on the Tumar Jama, would arise from the conclusions formed by an industrious revenue expert, and embodied by him in a work entitled *A View of the Finances of Bengal*.<sup>29</sup> In this deeply learned but oppressively

terminology records etc., and perhaps introduced the system of land measurements. See Baden-Powell : *Land Revenue in British India*, pp. 36-37. When English writers call land-revenue "rent" it is generally because they favour the Francis-Shore view that the zamindars were the legal land owners : those who use the word "tax" usually favour the view that the land belonged to the head of the State.

26. Francis : *Op. cit.* p. 33.

27. i. e. the famine of 1769-70,

28. Francis : *Minutes of the Governor-General*, etc., p. 145.

29. Included in *The Fifth Report of The Select Committee of the House of Commons on the affairs of the Hon. East India Company*, 1812. James Grant, the revenue-expert, is not to be identified with the James Grant, who assisted in the attack on Warren Hastings in 1775, and to whom Hastings refers "I will not leave such wretches as G—, R—, and James Grant (names that I blush to write) in the power to render my designs abortive." The James Grant so characterised went home in 1776 and was not permitted to return to India. The James Grant in whom we are interested was appointed writer for Bengal on 13th May, 1778, but was probably already in India, for his arrival is dated

turgid book, the author, James Grant, contends : "the previous rent-roll, technically understood by the Persian terms *jumma toomary*<sup>30</sup> now in current use is *not* that original account framed by Torrell Mull (Todar Mal), and specified in the Ayun Akbarry (*Ain-i-Akbari*), as ignorantly believed by the native officers of Government, and designedly imposed by them on the credulity of others : but a repeatedly enlarged and corrected, and practical scheme of the finances, improved at various periods by actual surveys, hustabood accounts, or particular local investigations, in the course of near a century and a half to the expiration of almost a third of the present."<sup>31</sup> The [ ~~xxx~~ ] authentic original revenue-roll Grant believed to "be complete in the daily practice of the native officers employed in the Company's exchequer".

When the Company took over the revenue administration, they became acquainted with a standard valuation of the cultivated lands, and this valuation was known to them as the *ausil tumari jama*, or the valuation the lands bore on "the King's books" We even find a young military officer, who had been sent to bring to order the zamindars of the wild districts to the west of Midnapur, writing to the Resident : "I really think from what I saw of the country that he (the zemindar of Sankakalia or Lalar) cannot be in the same flourishing situation which his forefathers were in, if I may judge from Taroor Mull's tuxeram jumma".<sup>32</sup> Lists giving the amount of the land revenue as borne on "the King's books" are to be found in the Record Department of the India Office, but, if Grant's argument is to be accepted, these lists will not really correspond with the statistics of the *Ain-i-Akbari*.

From antiquarian speculations as to the nature of the Mughal revenue system in the period before the English occupation, it is now necessary to turn to the more general system of the Mughals as the English found it at work. It has been seen that the government of the three provinces of Bengal, Bihar, and Orissa was generally entrusted to a single person known as the Subahdar. It has been asserted, and it may be true, that up to the reign of Aurangzib, the Subahdar was both Nazim and Diwan of his province, but that Aurangzib, in order to reduce the power of a too independent viceroy, divided the offices. The functions of the Nazim are thus clearly defined by Field :

July 18th of the same year. In 1782 he was Assistant to the Resident at Hyderabad. In 1784 he compiled a lengthy report on the revenues of the Northern Circars, and followed this up by his *View of the Finances of Bengal*. The materials he made use of were chiefly revenue records he had been so fortunate as to be able to purchase (!); and, as those records have disappeared, it is impossible to test the use he made of them. A letter of the Governor-General (Sir John Macpherson) and Council, dated 19th July 1786, created the office of Chief Shrishtadar, in favour of Mr. Grant. See Colebrooke : *Supplement*, pp. 251-53. For some curious and little regarded facts about Sir J. Macpherson's administration, consult *British India Analyzed*, 1793, part ii, chap, vi,

30. Tumar-Jama, Tumar—a rent roll or register.

31. J. Grant: *View of the Finances of Bengal*.

32. Lieut. J. Ferguson to John Graham, Resident of Midnapur, 11th February, 1767. See *Midnapur Districts Records*, edited by W. K. Firminger, vol. I. p. 98. Beams (*Journal of the Royal Asiatic Society*, 1896) deals with the subject of Orissa as described in the *Ain-i-Akbari*.

“Under the Mahomedan Government, the *Nazim* was the chief officer charged with the administration of the criminal law and the police, just as the *Diwan* was charged with the administration of the civil law and the collection of the revenue. The term *Nizamut* denoted the offices, duties of the Nazim, the administration of police and criminal law. In the palmy days of the Mogul Empire, it was usual to conduct the administration of the more important *subahs* or provinces through a Viceroy or Governor called a Subahdar, who was occasionally a relative of the Emperor, and to whom were entrusted not infrequently both the diwani and the nizamut. As Diwan he collected and remitted the revenue and administered civil justice. As Naib or Nawab Nazim, i. e. Deputy of the Minister for the administration of criminal justice and police, who was near the person of the Emperor, he administered criminal justice and managed the police of his province. The Subahdar of Bengal, Behar, and Orissa formerly exercised these double functions”.<sup>33</sup>

[ xxxii ] It must be borne in mind that the Mughal Government of Bengal was in character a military occupation rather than a civil administration. Beneath the Subahdar were the faujdars (*fauj*-army : *dar*-holding), and it was the duty of these officers not only to preserve the peace, but to overawe and restrain the zamindars. The Subahdar and the faujdars thus formed the executive force of the province. The faujdars were, at least in theory, appointed by the Emperor and were removable by his authority only. According to Seid Gholam Hossein Khan, the author of the *Seir Mutaqherin*, Behar and Bengal had been divided into the following Faujdari jurisdiction :—

Behar. Shahabad and Rhotas.

Monghyr and Behar.

Champaran and Sarun.

Tirhoot and Rajipur.

Bengal. Chittagong (Islamabad)

Sylhet.

Rangpur.

Rangamati.

Midnapur.

Castle of Djalal-gur-poorania. [ Jalalgarh, some ten miles N. E. of the town of Purniah on the old bed of the Kosi river. ]

Rajshahi.

Burdwan.

Hughli.

The same author tells us that it was the business of the faujdar to see that in the district entrusted to his charge no zamindar erected fortifications or collected provisions of war. If the zamindar consented to give up his arms and dismiss his troops, he

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<sup>33</sup>, Field : *Regulations of the Bengal Code*. Calcutta, 1875. Introduction, p. 2.

was "to be forthwith removed from that spot and zemindary ; but in case he attempted to resist, then the Faujdar was to attack him immediately ; to chastise him with severity, to demolish his castle ; and to act with so much expedition and vigour, as that the refractory land-holder should be reduced to extremity, and hence-forward obliged to wear in his ear the ring of obedience, as well as to carry on his shoulder the trappings of submission, in such a manner as to have it no more in his power to disobey or resist. The Faujdar was to drive the delinquent from that spot and never to suffer his residing in it again, unless by a special order from higher authority . . . . . In case he had been able to lay hold of him, he was to send him to the Governor-General (i. e. the Subahdar), prisoner and chained or to keep him confined until he might receive orders respecting the disposal of him".<sup>34</sup>

[ xxxiii ] Many of the faujdars we meet with in the course of the early history of the English in Bengal were persons of considerable importance. As it was a faujdar, Muhammad Zaman Tahrani, who extended his patronage to the first English merchants in the Bay, so it was the faujdar of Hughli who kept them in an abiding state of apprehension.

Verelst, in the glossary prefixed to his *View of the Rise, Progress and Present State of the British Government*, defines a "chuklah" (*chakla*) as "the jurisdiction of a faujdar who receives the rent from the zemindars". Whatever the practice of the first Mughals may have been, the faujdars from Shah Jahan's time at least, seem to have secured their appointments by speculative offers of lump sums of revenue which they pledged themselves to collect. Todar Mal's statistical account of the Districts might serve as a standard by which these offers could be tested, but that it fettered the faujdars when once appointed cannot be supposed.

For the Rangpur district, there is an account of the revenue operations under the Nawab,<sup>35</sup> drawn up by the Kanungo for the information of the English Collector, and this account no doubt represents the state of affairs elsewhere in Bengal :

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34. *The Seir Mutaqherin or View of Modern Times*. Translation, Calcutta, 1789, vol. II, p. 569 *et seq.* The author notes that Dacca had a Nawab etc. etc. of its own, but his list is certainly defective as far as Bengal is concerned. His language about the zamindars might be supposed to be coloured by his prejudices, for he describes them elsewhere ( vol. II, p. 602 ) as a "malevolent race", and adds that formerly "no trust was reposed in their words nor in their actions ; for their character was thoroughly understood : they were looked upon to be an incorrigible race". Of twelve causes assigned for "the diminution of revenue and population over all Bengal", he says, "the seventh cause may be found in the overgrowing power of the zemindars, and in their being trusted too much". This was probably written in 1781.

35. The Collector, D. H. McDowall, writes in 1787 : "It is more than probable the lands of Rungpore have never been measured since the country first came into possession of the Kings of Hindoostan ; and the records of the district afford not the smallest information as to the quantity of land fit for cultivation, nor of the bazi zameen in the possession of individuals". Glazier : *Further Notes on the Rungpore Records*, p. xli.

"In the Bengal year 1147 (A. D. 1740) Cossim Ulee Khan having given to *tahood*<sup>36</sup> for Rs. 3,36,000 came to this place, and that bandobust was continued without alteration to the end of the year 1164 (*i. e.* about April, 1758). In the year 1175,<sup>37</sup> Shekh Abdool Soobha, who was Cossim Ulee Khan's servant, being discontented with his master, went to Moorshedabad and told Meer Cossim (the Nawab Mir Kasim) that the district was capable of yielding an increase, for which reason Meer Cossim gave a *tahood* for an increase of one lakh upon the former jumma, and having appointed Shekh Abdool Soobha his Naib, he sent him up to Rungpore, where he died five or six days after his arrival. The Nabob Meer Cossim, having received account of the said Shekh's death, immediately set out for this place, and, after his arrival, having laid an increase on the whole district, he took from Rampershad a *tahood* for ten lakhs of rupees and then returned to Moorshedabad. The revenue was not realized, and therefore, Rampershad and his relations were imprisoned in the fort. In 1166 (A. D. 1759) a decrease was granted on the former jumma, and Dewan Shamsoundur gave a *tahood* for the revenue, which continued under his management during the years 1166 and 1167 (A. D. 1759 and 1760). In the year 1168 (A. D. 1761) Dewan Bydnath and Meer Murdun Ulee arrived, and, having laid an increase of a [ xxxiv ] lakh and odd thousand rupees, they again took a *tahood* for the amount from Dewan Shamsoundur, but, from the revenue not being paid up Meer Dour Buksh was appointed *Sazawal*. This man deprived a great many Hindoos of their caste, and exercised the greatest severities in the collections, but was unable to realize the revenues. In the end of the year 1168, or the beginning of 1169, in the month of Assar, a Soobadar, with near a hundred men came from Monghyr, and having confined the *Sazawal* Meer Dour Buksh, and the *amla*, he carried them on board a boat, together with Ramchund Roy, the Gomastah of Bhuda (Boda ?), etc. After that, in the year 1169, Dewan Soba Chund gave a *tahood* for the same jumma, and began to make the collections ; but in the meantime a numerous body of ryots belonging to Cargehaut rose in rebellion, and seized upon the mofussil collections, report of which being sent to Monghyr, a message came from thence to the ryots, informing them that if they did not return to their duty, forces should be sent against them. The son of Soba Chund was accordingly sent with some forces, and used every mode to encourage them to return their duty, but without effect ; and the troops were at last under the necessity of engaging and putting a great many to death ; after which the aforesaid Dewan was confined and carried to Monghyr for having failed in his payments. Some time after this, the Nabob, Meer Cossim Khan, fled from Monghyr,<sup>38</sup> and the Company got possession

36. *Tahood* [ *Tahud* ] : Bandobust, an agreement.

37. *i.e.*, 1768 A. D. Mir Kasim became Nawab in October 1760 and was dispossessed in 1763. The error in date does not affect the general truth of the Kanungo's statement.

38. At the end of October or early in November, 1763, the Rangpur district seems to have held out for the fugitive Nawab. In the consultations of the Dacca Council, on November the 9th, 1763, we read : "In consequence of our address of the 2nd instant to the Hon'ble Board representing the unsettled and confused state of the Rungpore Provinces, and the Government there still holding out against the Nabob Meer Jaffer ; likewise informing them of the confinement of Mr. Moore, an English Agent, we have been



of the country. Cossim Ulee Khan, who was formerly at Rungpore, returned in the year 1170 (A.D. 1763) on the part of Meer Jaffar (the restored Nawab Mir Jafar), and, having granted large deductions, he made a settlement for Rs. 6,17,262-15-8-3."<sup>39</sup>

[ xxxv ] Another and a brief instance of the system of letting out the revenues in farm to executive officers of state may be cited. On the 22nd January, 1771, the newly appointed Deputy Supervisor of Sylhet, John Sumner, writes to Thomas Kelsall, the Chief and Supervisor of Dacca : "I have presented your letter . . . . . to the Naib Phousdar ; he referring it to the Dewan, who has charge of the collections in the Phousdar's absence. He tells me that there is a balance necessarily arising at the end of every year, which he has always explained to the Nabob, and assures me that a part arises from an exaggerated statement made by a former Phousdar to the Nabob with a view to emulate a rival in the Nabob's favor ; that, however, the amount was never collected in one year".

It is not difficult to see how it would become the policy of the Nawabs to make use of Hindu local capitalists in order to secure the payments of revenues—a service in which their far too independent faujdars were notoriously remiss. The Hindu with his keen scent for the acquisition of a fortune in the service of a master, before whose terrors he bowed but whose vigilance he well knew how to escape, understood, as the faujdars, usually immigrant Persian soldiers, could not understand, the arts of concealment and collusion practised by the native cultivators. Mu'ishid Kuli Khan, the first practically independent Nawab, made it his practice to employ in the collection

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favoured with their answer this day : that we send a detachment of troops into that country to seize the Phousdar, if possible, and to subdue it in the name of the Nabob Meer Jaffer. Agreed that Lieutenant Dow, with four companies of seapoys, with a Howitz be appointed for this service, and that a sufficient number of boats for the embarkation of the troops be provided with all expendition, and that a sum of money amounting to 10,000 Rupees be lodged in the hands of Mr. Dow, for pay and batta to the purport of the Hon'ble Board's letter, viz : that the command he is now trusted with is with the following views : to subdue that country, and to restore peace and tranquillity by fixing the officer appointed to act by the Nabob as Phousdar in his full power and authority ; to release whatever English Gentlemen may be in confinement, and to seize the person of the late Phousdar. All of which being effected, he be ordered to return with his detachment to Dacca". During the troubles of 1763, Cartier, the then Chief at Dacca was in Calcutta, occupied with his duties at the Council Board. The approach of an armed body of Fakirs in June 1763 caused the rest of the Dacca Council (W. Ascangus Senior, R. Leyceser, and T. French) to fly for safety to the Factory at Luckipore ( Lakshmipur). Dacca was recaptured by either Lieutenant Grant or Lieutenant Swinton. *Vide Bengal : Past and Present*, vol. v, p. 209. At Cossimbazar the English servants ( John Chambers and Lyon) were captured and murdered in the general massacre of the English at Patna.

39. Glazier : *Op. cit.* pp. xxxix-xi. The Mahomedan authorities did not remain in the unhealthy Rangpur district for the whole year, but visited it at the critical revenue seasons. Rennell in his Journal for November, 1765, notes : "There is but little worth remarking about Rangpur, it being only a principal *gunge* (market), and like most of the others, the houses are built of matts and bamboos, there being but one brick house in the town". T. D. La Touche : *The Journals of Major James Rennell*, ( Asiatic Society of Bengal, 1910) p. 55. The importance of Rangpur as an emporium for trade was probably due to George Bogle, who was Collector of Rangpur in Hastings' time.

of the revenues Hindus in preference to Mahomedans, for the Hindus were both more pliable and more skilled ; while the Mahomedan faujdars were, if not indolent, apt to fly into revolt. No account of the condition of Bengal will resemble the truth, if it takes it for granted that the Nawabs felt themselves bound to deal with any one set of officers for the realisation of their revenues. To collect their *mal* and *sayer* the Nawabs would be hampered by no constitutional rights of faujdars on the one hand or of zamindars on the other. The creation of the smaller type of zamindar seems to have been due to the desire of the Murshidabad Power to have two strings to its revenue bow—the Hindu who understood so intimately the habits of the people who paid the revenue, and the Faujdars, who, although distrusted, could squeeze, when occasion required, the petty zamindars.

The early English writers, e.g., Philip Francis and Sir John Shore, Boughton Rous, etc., based their conclusions on inferences drawn from statistics and to a purely legal Mughal theory, rather than on the actual facts of history. They do not, for instance, seem to have been aware that under the Mughal rule the collection of the revenues was often entrusted to military officers, nor do they sufficiently appreciate the fact that many of the great zamindari estates known to them were of recent origin. It is, however, no part of our present purpose to deny that, so far as Bengal is concerned, the “palmy period” of the Mughal administration ever existed. If a time so blessed there ever was, it had ceased before the English came to the country. It is true that in Verelst’s days the period of Shah Shuja’s [xxxvi] subahdari had come to be venerated as “that era of good order and good government”,<sup>40</sup> but the English records during that period do not confirm the supposition. Mr. Westland, in his account of the Jessore District, gives us a picture, the contours of which remain firm as long as retrospection gives a view :

“These zemindars were a turbulent lot, much too independent and not very punctual in the payment of their revenues. They might, however, fight among themselves and swallow up their smaller neighbours, much as they chose, so long as they paid their revenue ; and to ensure their paying the Nawabs kept a military governor with a small force in each of the districts. This officer, the *faujdar*, as he was called, retained, on the part of the Nawab, sufficient appearance of power to make it the interest of each zemindar to secure himself by continuing to pay his revenue, or as much of it as would satisfy the Nawab. Beyond that point probably the faujdars did not care to go, as the system of the Nawabs was rather a military occupation of the country where the zemindars, their tribute bearers, were the potentates, than the administration of the country as their own”.<sup>41</sup>

40 Verelst : *View, etc.*, Appendix, p 230. “No alterations had taken place in the ancient divisions of the country, and the confusion, which is now apparent, has been posterior to those times.”

41. Westland : *Op. cit.* p. 53. Westland overlooks the fact that the faujdars who in origin were appointed by the Emperor, and so intended to be a check on the Nawab, were often productive of the evil results of double government. Contrast with Westland’s historical statement Francis’ theoretical view : “The mode of collections is well ascertained. The Zemindars paid the rents themselves for the most part at the treasury. When Collectors were sent on the part of government, it was not to dispossess

From the faujdars, attention must be turned to the zamindars. In strict etymology the term zamindar means a land (*zamin*) holder (*dar*). In revenue practice a zamindar is one who holds a portion of land described as *pargana* or an aliquot portion thereof. From 1775 to the date of the Permanent Settlement in 1793 the question was discussed with much learning and some vehemence, "Is the sovereign or are the zamindars the owners of all land in India"? In this controversy the etymological meaning of the term zamindar was pressed in order to make good the assertion dogmatically made by Philip Francis of the zamindar's ownership. "The Company, I believe", wrote Francis, "had conceived an early, but erroneous, opinion that, by the constitution of the Mughal Empire, the governing power was proprietor of the soil; consequently that, in the management of their territorial acquisitions, they ought not to content themselves with a fixed tribute as government, since they had a right to engross the entire produce as landlord". In contradiction to this error, Francis urged "the cultivation of the soil should be left with the Gentoos (*i. e.* Hindus), whose property it is".

[ xxxvii ] This question "Who is the landlord?" was probably not nearly so much in the minds of the Company's servants as Francis supposed. The Company's government was in fact concerned with the Mughal institution of land revenue which had been placed in its hands: the question of ownership in land (complicated as it was by the importation of those ideas as to absolute ownership of land which Englishmen usually hold, in despite of the teaching of their own lawyers,) was one which Francis brought into a prominence it never had before his time. The abstract question of the zamindar's right of property was one which Hastings expressly declined to deal with. "I do not mean", he says in his *Review of the State of Bengal*<sup>42</sup> (written on his homeward journey in 1785-86), "to contest their (the zamindars') rights of inheritance to the lands, whilst I assert the right of the Government to the produce thereof". He turned his back on the discussion as to inherited property and pointed to facts which had been before the eyes of the Company's servants. The zemindary of Rajeshahy, the

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them of the management of their lands, or to discover the amount of their profits as proprietors, with a view of bringing those profits to the credit of government. When such officers were sent, it was in consequence of some fault in the Zemindar, or failure in his rents, to the levy dues of government by distress or temporary attachment of the lands. Hence they were called *Sazwuls*, literally *punishers*." Francis: *Op. cit.*, p. 34.

42. Included in vol. II. of Mr. G. W. Forrest's *Selections from the State Papers of the Governors-General of India: Warren Hastings*. "The public in England have of late years adopted very high ideas of the rights of the Zemindars in Hindostan; and the prevailing prejudice has considered every occasional dispossession of a Zemindars from the management of his lands as an act of oppression. I mean not here to enter into any discussion of their rights, or to distinguish between right, fact, and form, as applied to their situation. Our Government, on grounds which more minute scrutiny may, perhaps, find at variance with facts, has admitted the opinion of their rightful proprietorship of the lands. I do not mean to contest their right of inheritance to the lands, whilst I assert the right of Government to the produce thereof. The Mahommedan rulers continually exercised, with a severity unknown to the British administration in Bengal, the power of dispossessing the Zemindars on any failure in the payment of their rents, not only protempore, but in perpetuity". Then follows the passage about Rajshahi. *Ibid.*, p. 72.

second in rank in Bengal, and yielding an annual revenue of about twenty-five lakhs of rupees has risen to its present magnitude during the course of the last eighty years by accumulating the property of a great number of dispossessed zemindars, although the ancestors of the present possessor had not, by inheritance, a right to a single village within the whole zemindary".<sup>43</sup>

This was perhaps an appeal to an extreme instance. It would, on the other side, have been possible to point to zamindars who represented families of great antiquity and whose position might plausibly be described as inherited. The Rajas of Bishnupur and Birbhum, for instance, as Wardens of the Western marshes, had not been subjected to the severe financial measures of the Nawab Murshid Kuli Khan, and might with reason be grouped with such other magnates as the Rajas of Tipperah, Cooch Behar, Nadia, Burdwan, etc., as enjoying titles rather by hereditary right than official grant. The difficulty involved in the controversy lay in the fact that the term zamindar included persons whose relation to the lands in their enjoyment was of a very varying character. By a zamindar might be meant the representative of some ancient Hindu sovereignty ; it might mean a government farmer who in recent years had acquired his zamindari by inserting himself in the place [ xxxviii ] of the dispossessed, and it might mean the occupant of but a single parganah. But, setting aside the issue as to ownership, it was clear that all these kinds of zamindars had at least one function in regard to the State—they were one and all answerable for the yield to Government of the sovereign's portion of the harvest, in kind or in pecuniary equivalent, on the threshing floors of the cultivators, and this function was expressed in writing by the terms of their sanads, or patents of appointment. Whatever might be put forward as to ownership, hereditary succession, etc., it could not affect the fact that the right of the sovereign to participate in the produce of the soil was even more ancient and more firmly established in native ideas than any claim that could be asserted as to the rights of any single zamindar.

Viewed from the point of view of his obligations to the State the position of the zamindar, therefore, was not unlike that of a revenue farmer. The historical zamindari is not the zamindar's private estate but the parganah, group of parganahs, or aliquot portion of estates for which the zamindar is pledged to make good to Government the payment of the land revenue. To dispossess the zamindar of his zamindari is not necessarily to deprive him of his household and *nancar* (subsistence) lands, but to assign to another the profitable employment of collecting from the dependent ryots or cultivators the revenue assessed on their holdings and retaining a commission on the revenue so collected. In itself the word zamindari means, as Baden-Powell points out : <sup>44</sup>

#### 1. The right to the revenue share.

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43. A remarkable instance of the tendency of English writers to ascribe antiquity to zamindars is supplied by Lord Macaulay's account of the rajas of Benares. Chait-Singh's father, who was the first to hold the title of raja, was at first a mere farmer of the Nawab of Oudh's revenues.

44. B. H. Baden-Powell in *Asiatic Quarterly Review*, July, 1891.

2. The right to dispose of waste and unoccupied lands.

3. The right to certain mineral royalties, etc.

The zamindars, when they come into prominence, not as petty half-tamed kings or chieftains but as *zamindars*, are local capitalists employed by the State to exercise the zamindari right on specified conditons.

Whatever may have been the portion of the harvest claimed by Akbar as the king's share, there is no doubt about the views entertained at the time of Aurangzib : "There shall be left for every man who cultivates his land as much as he requires for his own support till the next crop be reaped and that of his family, and for seed. This much shall be left to him ; what remains is land-tax, and shall go to the public Treasury". It has been said that under native government, up to our own times, there has been "no other limit to the demand upon the land than the power of the Government to enforce payment and the ability of the people to pay" <sup>45</sup>

"In every district throughout Bengal", writes Sir John Shore, "where the licence of exaction has not superseded all rule, the rents of lands are regulated by known rates called *nirk*, and in some districts each village has its own. These rates are framed, with respect to the land at [ ~~xxxix~~ ] so much per bigha. Some soil produces two crops a year of different species, and some three. The more profitable articles, such as the mulberry plant, betel-leaf and tobacco, sugar-cane, and others, render the value of the land proportionably great. These rates must have been fixed upon a measurement of the lands and the settlement of Todar Mal may have furnished the basis of them. In course of time, cesses were superadded to the standard and became included in a subsequent valuation, the rates varying with every successive measurement. At the present time there are many abwabs or cesses collected distinct from the *nirk*, and not included in it, though they are levied in certain proportions to it" <sup>46</sup>

The payment required of the ryot was therefore of a twofold kind : (1) the *nirkh*, which theoretically represented the division of the produce at harvest, and this constituted the *asal-jama* and was a fixed rate per bigha ; and (2) the abwabs or cesses which were demands locally imposed. These cesses, which were imposed on the ryots, were partly of a provincial and partly of a local character : some of these cesses may be specified in order to illustrate their general character :

1. Khasnovessy, originating in an annual rasum or fee exacted from the zamindars by the clerks (*Khalsa mutasaddis*).

45. Thomason quoted by Sir John Strachey : *India : Its Administration and Progress*, 3rd edn., p. 126.

46. Shore : Minute of June, 1789, paras. 391 & 392. Shore, as Sir W. Hunter has pointed out, was "not aware of the imperfect character of Akbar's settlement in Lower Bengal," and "in assuming the existence of successive measurements he went beyond the ascertained facts." Hunter : *Bengal Records*, vol i, p. 56.

2. Mathaut (from *matla*, lit : "head") <sup>47</sup> raised for defraying expenses of the punya (Khilat Baha), repairing bridges and banks (pooshtebandi), etc., a commission exacted by the head peon on treasures brought from the districts in the interior (Rasum nezarut), or to defray the expenses connected with the maintenance of the Nawab and Diwan's elephants (Fil khana).
3. Faujdari abwabs<sup>48</sup> to defray the expenses of the faujdars and their establishments.

In addition to the parganah rates collected for the benefit of the State, the local collectors had another collection which was known as kharij-jama (corruptly and commonly *khadge jama*). <sup>49</sup> It would be the [ xl ] policy of a strict revenue government, such as was that of the Nawab Mir Kasim (1760-63) to "resume" all these concealed collections for the benefit of the provincial treasury, and the increment so obtained for the Nawab was spoken of as kifayat (corruptly *keffyet*) or profit.<sup>50</sup>

One of the most formidable demands made on the ryots by the zamindars was *mangan*, or an assessment levied to defray the incidental expenses of the zamindar and his household. The enormous expenditure to which the zamindars would go on such occasions as the funerals of parents, the "house-warming" of new *rajbaris*, the marriage of children, or the adoption of heirs, was met on every occasion by cesses levied on their dependent ryots. It belongs to the mysterious passive temperament of the East, that cesses of this kind were often repeated long after the occasion, which had given rise to them, had ceased. <sup>51</sup>

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47. Grant records that the Indian mathaut (corruptly mathoot) was confused in Europe with the French maltote, which may have originated in an indulgence of restraining horsemen from trampling down corn.

48. By some writers the faujdari abwabs were supposed to be of the nature of fines inflicted by the courts: on the contrary they were permanent assessments, and they may often have been bribes paid by the zamindars to keep out the faujdar's interference, but they were collected from the ryots.

49. The Hon. R. Lindsay writes from Sylhet, 1st Oct., 1779: "Their inability to comply with the demands of Government is further owing to their having, for trifling considerations of ready money, disposed of considerable portions of their hereditary lands upon Khadge Jumma, or exempt from the revenues, for which the Zemindars (are) yet responsible, though not in possession of the lands upon which the taxation is formed. The present possessors would still be liable to be called upon for their proportion of the rents, but they have in general avoided this by obtaining charity sunnuds for the lands so purchased, under the seals of the former diwans of Sylhet".

50. *Kifayat-i-sair* : the profit derived by bringing to account concealed exactions in custom duties, etc. *Kifayat-i-faujdari* : "increased assessment on the frontier lands held by the military governors, levied by them, at first for their own benefit, but brought to the credit of the government by Kasim Ali Khan" H. H. Wilson : *Glossary of Revenue Terms*.

51. Having been called on to report if the Zamindars in the Rangpur district would contribute to defray the cost of providing public granaries, the Collector, Peter Moore, writes, 3rd Dec., 1784 : "Neither the zemindars in this, or any other, part of the country, will pay it from any stock of their own, but, as usual, levy it from the country under the denomination of *mangun*, or want ; and, as a measure of finance adopted by the Government, it will then meet a ready and voluntary concurrence. In well-regulated zemindaries even when *mangun* has been privately asked by the zemindars, the ryots, understanding it as a necessity of the zemindar's household, or requisition for services beneficial to

Another kind of cesses, under such heads as najai, derivallah, firari, palataka, etc., were designed to make up losses due to desertion of the ryots by imposts on those who remained. Warren Hastings, in his important letter of 3rd November, 1772, refers to the najai as in part accounting for the maintenance of the revenue collections unabated during the terrible famine of 1770. Hoondan was designed to cover losses on the exchange of coins. Yet another kind of cess (Moorkafee Jarib) may be mentioned and that was a payment made by the zamindar on the ryot in order to be spared an *hustabood* or exact valuation of his holding.<sup>52</sup> In Ali Verdi Khan's time the Chout, or "Dangelt" to the Marathas was added.

It has been said by Sir William Hunter that the imposition of these *abwabs* or cesses had the effect of rendering the original assessment, or *asal tumari jama*, "nugatory", but the idea that the cesses were not made in the early days of the Mughal Government is probably a delusion. The prospect of being able to enrich himself at the expense of the ryot was the very actual inducement which led the *faujdars* to settle in the districts; [ *खलि* ] and the zamindar's claim on the ryot for *mangan* must have been from time immemorial. Francis indeed based his belief in the moderation of the early Mughal rule on what he took to be an undoubted fact, *viz.*, that prior to the establishment of the Company's rule Bengal had been a wealthy and flourishing province. Of the actual internal condition of Bengal during the period spoken of as "palmy", he knew nothing, and when presented with an account of the Nawab Murshid Kuli Khan's severities, he simply professed incredulity. Whatever view may be adopted in regard to the transactions of Akbar and Todar Mal, the facts of the anarchical conditions of Bengal at the time the English commenced their government are in full and painful evidence. In its origin as has been seen, the Mughal government of Bengal was a military occupation in which the Subahdar tended to make himself independent of the Emperor, while the *faujdars* would do their best to be independent of the Subahdar. The fratricidal struggles which ensued on the death of Aurangzib made it possible for the crafty Murshid Kuli Khan to build up his fortunes, so that when he was able to combine the offices of Nazim and Diwan, he was able to make himself an almost independent King in Bengal. The office of Subahdar, hitherto an appointment at the pleasure of the Mughal, from the time of Ali Verdi Khan's death, came to be regarded as descending by inheritance. Not only had the government at headquarters passed through a revolution, but the whole of its machinery was in disorder. In 1742

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the zemindary, it has been known to meet a ready and voluntary consent., If such supplies were readily furnished under the Mogul Government, when neither life, liberty nor property were secure, it ought not to be supposed that under the mildness and security of English protection and laws, when those blessings are sacredly preserved to them, as far as the English arm can reach, land-holders will be less inclined to lend the same acquiescence". It may be mentioned that Peter Moore, a hostile witness at the trial of Warren Hastings, was by marriage a great uncle of the novelist, W. M. Thackeray, to whom he was guardian and that he was the friend and benefactor of R. B. Sheridan.

52. In 1769 the sum of Rs. 25,036-15-10 was paid out of a total revenue of Rs. 12,37,367-14-13-3 by the cultivators of Rangpur to obviate a measurement.

the Marathas had spread through the plains watered by the Bhagirathi, and for the time the Nawab was cut off from his possessions to the west of the Ganges, and, although during the following six years the Nawab engaged successfully with the Maratha forces; yet in 1751, Ali Verdi Khan was constrained to recognise the Maratha chief as his Deputy in Orissa, to grant him the right to appropriate the revenues, and was moreover compelled to pay twelve lakhs annually as chauth to this inconvenient Deputy. Behar had in the meanwhile been the scene of the savagery of the Afghans. The pictures drawn of Patna in the year 1748 recall that terrible description of our own motherland in the days of King Stephen, when men said openly that "Christ and His saints slept". "The insurgents sacked the city and its suburbs, looted treasures, dishonoured women and children and desolated a whole world", so writes the author of the *Riyazu-s-Salatin*. It is impossible to believe that when the strong Ali Verdi Khan had passed away and his impulsive and effeminate grandson Siraj-ud-daula came into possession of the subahdari, the Mughal power would not have succumbed to the forces of disorder in Behar, or that the Marathas would have remained content with Cuttack. The defeat of the invading Marathas by the English in 1760 is one of the events which have been obscured by their more striking successes against Mir Kasim and Shah Alam. The internal condition of the country after Plassey is a subject which has never been dealt with adequately. We do not, for instance, realise that there were in existence powerful chiefs in Bengal, who even after Plassey could set the conjoint authority of the English and the Nawab at defiance. It cannot be conceived that Siraj-ud-daula or indeed Mir Jafar unprotected, could have passed through an ordeal in which Ali Verdi Khan all but succumbed.

It has been shewn how besides the Imperial collection of land revenue there existed a system by which the faujdars and zamindars collected [ *xlii* ] almost numberless cesses from the cultivators. On behalf of the Imperial Government for each important unit of the revenue collection there were officers called Kanungos.<sup>53</sup> Of these Mr. Westland writes: "These Kanungoes were officers deputed on the part of the ruling power to the offices of the zemindaris. Their duty was to authenticate transfers and leases, and to see that the zemindari accounts (the basis of the various settlements) were truly and properly kept. According to a very ancient custom, they were paid by a sort of cess called *nim-taki* or *pao-taki*, according as it was half or quarter per cent, of the collections. Besides the kanungoes at the sudder office<sup>54</sup> of the zemindari, there were similar subordinate officers at the mofussil<sup>55</sup> cutcherries, but these were either paid in cash or by a piece of land by the zemindars. Some of the zemindars did not like this supervision, and did what they could to oppose the kanungoes; but some of them, for their own sakes, liked to have one as a check upon their own *amlah*".<sup>56</sup> It has been seen that it

53. Properly Kanungo : go=speaker : Kanun=the canon or rule. Lindsay writes "Congoo" !

54. Sudder (*Sadr*)—headquarters.

55. Mofussil (*Mufassal*)—district, "up-country".

56. Westland : *Op. cit.* pp. 87-88. *Amla* : "the collective head of native officers of a judicial or revenue court". Wilson : *Glossary*.



was from the kanungoes Todar Mal derived the bulk of his information, and in the *Ain-i-Akbari* it is said, "the Kanungo is the protector of the husbandman, and there is one in every parganah".

The representative of the village in revenue matters was the *Patwari*, who was maintained by allowances from the cultivators and grants of village lands. The Kanungo, who represented the State, and the Patwari, representing the cultivators, would have been invaluable officers, had not the whole Mughal system been vitiated by the cesses worked for the benefit of faujdars and zamindars. Under the system of cesses, however, the district records bear witness to what Sir John Shore aptly described as "an intricate scene of collusion opposed to exaction and of unlicensed demand substituted for methodised claims". If the Patwari was well aware of the oppressive nature of the demands of the zamindar, he was also not ignorant of the fact that the cultivators, whom he represented, held far more land than was placed under assessment.<sup>57</sup> The structure of the Mughal system indeed had become so thoroughly rotten that when in 1772 the English Government attempted to relieve the cultivators by abolishing some of the most obvious abuses in the cesses, such for instance as the haldari or fees on marriage, the repeal failed to benefit the ryots, for the cesses continued to be collected but were not placed to the credit of the treasury. The ignorance of Government as to the extent of the ryots' holdings stood in the way of any measure which would have benefited the ryot, and the patwaris had too long been accustomed to place their whole trust in collusive frauds [xliii] to look for the salvation of their clients in the good intentions of the English sahibs.

The subject of the administration of justice during the Mughal occupation is an extremely difficult one, and contradictory accounts have been given by writers of authority. Field, in his work, *The Regulations of the Bengal Code*, writes: "The operation of these Courts<sup>58</sup> was confined to circle round about Murshedabad, and there were no

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57. Harington in his *Analysis* mentions that in Jessore the *nominal* rate of the land revenue assessment was three rupees per bigha, but the *actual* rate was only one rupee "as the ryots possess fifteen bighas when their pattas state five only", and upon the last quantity the assessment of three rupees only is made.

58. Field (*Op. cit.* pp. 134-35) gives the list supplied in the Letter of the Committee of Circuit, 15 Aug., 1772 :

- (1) The Nazim, who, as supreme Magistrate, presided personally at the trial of capital offenders.
- (2) The Diwan, who was supposed to decide cases relating to real estate or property in land, but who seldom exercised this jurisdiction in person.
- (3) The Darogah-Adalat-al-Alia, or Deputy of the Nazim in the criminal court, who took cognizance of quarrels, frays, and abuse, and also of all matters of property, excepting claims of land and inheritance.
- (4) The Darogah-i-Adalat-Diwani, or Deputy of the Diwan in the Civil Court.
- (5) The Faujdar, or Officer of police, and Judge of all crimes not capital.
- (6) The Kazi, who decided claims of inheritance or succession.
- (7) The Muhtasib, who had cognizance of drunkenness, the vending of spirituous liquors and intoxicating drugs, and the examination of false weights and measures.

proper arrangements for subordinate jurisdiction in the distant districts. The Kazi indeed had his substitutes, but their power was exercised under no lawful and authoritative commission, and depended upon the pleasure of the people, or their ability to contest its exercise. The zemindars, farmers, and other revenue officers accordingly assumed that power for which no provision was made by the law of the land, and they exercised it with a view, not to justice, but their own interests".<sup>59</sup>

In the *Sixth Report of the Committee of Secrecy, 1773*, on the other hand, it is stated : "The Criminal Court in every district was generally known by the name of the Phousdary (*Faujdari*), the Zemindar or raja of the district was the judge in this court : his jurisdiction extended to all criminal cases, but . . . . in such as were of a capital nature, the sentence was not to be executed until a report of the case was made to the Government at Murshedabad, and orders received upon it. The proceedings in this Court were summary : the most frequent mode of punishment, particularly where the man accused was a man of wealth, was by fine, and every fine imposed by the authority of the Court, was a perquisite of the zemindar himself, by virtue of the tenure of his lands ; the natural effects of this circumstance, upon the fair administration of criminal justice appear to your Committee to have been severely felt".

In a minute dated the 7th December, 1775, Hastings disputes the accuracy of this statement, and when it is remembered that Hastings [ *xliv* ] during his early career in the country had been stationed as Resident at the Durbar and had acquired in that position an unrivalled knowledge of the Native Government, his view may be accepted with confidence. In reply to a minute entered by Clavering, Monson and Francis in which the statement of the Committee of Secrecy in regard to the alleged jurisdiction of the zamindar in the Faujdari Court had been repeated, Hastings writes :

"The nature of the jurisdiction which the constitution of Bengal allowed to the Zemindars as it is explained in the opposite paragraph differs very widely from the idea which I have always entertained of it. I venture to pronounce with confidence that by the constitution of Bengal the zemindar neither presided in the criminal court of his district, nor pronounced nor executed sentence on all offences less than capital, nor on any offences whatever except the non-payment of the rents (i. e. the revenue). 'He was answerable', it is true, for the peace and good order of the country as far as his jurisdiction extended, but only as the subordinate instrument of a larger system. The land servants, or the ancient militia of the country, were under his immediate charge, and being distributed throughout the zemindary, enabled the zemindar both to watch over its internal quiet and to obtain information of whatever passed in any part of it, and

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(8) The Mufti, who expounded the law for the Kazi, who, if he agreed, decided accordingly. If he disagreed, a reference was made to the Nazim, who called a council of jurisconsults.

(9) The Kanungoes, or Registrars of the lands, to whom cases connected with land were occasionally referred for decision.

(10) The Kotwal, or Peace-Officer of the night, subordinate to the Faujdar.

<sup>59</sup>. Field : *Op. cit.* Introduction, p. 135. Field overlooks the special jurisdictions at Dacca.

so far the faujdar's jurisdiction is inherent in the zemindar. In the exercise of it, he was subject to a faujdar, who had the superintendence of a district comprehending many zemindaries, and had the thanas or inferior stations under the charge of officers and armed men dependent on him, besides a part of the land servants of each zemindary, the rest being employed to guard the villages and enforce the collections. It was the zemindar's duty to give constant intelligence to the Nawab through the Roy Royan [ Rai Raian ] and to assist the faujdar in the apprehension of robbers and in executing the measures, which were required of him for preserving the peace of the country ; but this duty first and immediately belonged to the faujdar, who was the representative of the Nazim, and to him the people looked up for justice and protection, even against their own chiefs. The Faujdar was the check even upon the zemindars, who were often—and those of the Dacca district always—the patrons and abettors of dacoits, whose haunts and practices it was their especial duty to detect. In effect the law or custom which made the zemindar responsible for all robberies committed in his district,<sup>60</sup> whatever might have been the purpose of its [ xlv ] original institution, operated and was regarded under the Mohammedan Government rather as a punishment for connivance than a fine for neglect. Many instances may be quoted of zemindars who exercised other powers, and particularly in the oppressive custom, which they had assumed, of levying unlimited fines from the ryots on accusations of fornication and a variety of other pretences. Such is the case in all despotic Governments, especially in those which have undergone frequent revolutions ; but I believe—and I have authority for believing—that the constitutional powers of which the general Police of Bengal was composed will be found exactly as I have described them . . . . The zemindar of Burdwan was allowed the exercise of a faujdary jurisdiction by a special sunnud from the Nazim. I believe there is not another

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60. The following letter from the Comptrolling Council of Revenue at Murshidabad is illustrative, (Consultations of 10th June, 1771.)

Murshidabad,  
10th June, 1771.

To Mr. William Rooke,  
Supervisor of Jessore.

Sir,

.....After the measures we have already taken for protecting the country from the outrages of dekoits, we are concerned to find that they should still continue, and as the extremity they have gone to in perpetrating the murder of Mr. Dennis Holland affords but too just cause to suspect that they are countenanced in their villainies by the zemindars of the district or their officers, we are, upon this presumption, determined to sift the matter to the bottom ; and, as it becomes necessary in so doing to adopt the custom of the country in making the zemindar responsible, we direct, if he does not immediately produce the murderers, that you do send him a prisoner to the City (i. e. Murshidabad), accompanied with as particular information as you can collect on the spot of the circumstances attending this atrocious murder. You will at the same time take such measures as that the Business of the Revenue may not suffer by the zemindar's absence.....

We are, (etc.)

See also Long: *Selections*, No. 843.

instance, and this is rather a proof of the existence of the system which I have described than an exception to it, otherwise an especial sunnud would have been unnecessary".<sup>61</sup>

The responsibilities of the zamindars is a subject of some importance in the present inquiry, and it will be worth while, therefore, to give in parallel columns the relevant part of the text of two zamindari sanads : <sup>62</sup>

[ xlii-xlviii ]

( From Shore's Minute, April, 1788. )

*Translation of a Sunnud, under the seal of the Nawab Serfraz Khan, Dewan of the Soobah of Bengal, dated the 27th of the month Runzan, in the 17th year of the reign of His Majesty Mohummud Shah, or A. D. 1735-6.*

To the Mutsuddies <sup>63</sup> of affairs, and the officers entrusted with public transactions, for the time being and to come, to the Canoongoes, Mukuddums, <sup>64</sup> and husbandmen, of the pergunnah Rajshahy, etc., belonging to the Soobah of Bengal the Paradise of Kingdoms, be it known that in consequence of the Ferd Sewul, <sup>65</sup> which has been signed by the noble and princely Shujaa ud Doulah, Mohtimun ul Muluk, Shujaa ud Deen, Mohammed Khan Behadur, Assud Jung, Nazim of the Soobah, and agreeably to which the Furd Hukeekut <sup>66</sup> and Mochulka <sup>67</sup> have also obtained signature (the contents of all which are endorsed therein) the service of the zemindarry of the aforesaid pergunnah has been conferred, since the decease of Ramjeeewun, and in consideration of a peishcush, etc., and the balances, and the annual jumma of the pergunnah abovementioned, according to the annexed endorsement, on the first among his contemporaries, Ram Kunt, the adopted son of the aforesaid person ; to the end that, duly attending to the duties and functions of that service, he may not be wanting in the most minute particle of

61. G. W. Forrest : *Selections from the Letters, Despatches, and other State Papers, preserved in the Foreign Department of the Government of India, 1772-1785*, Calcutta, 1890, Vol. ii, pp. 454-55. Clavering, etc., attempted to reply by producing an apparently contradictory statement in the 18th article of Hastings and Barwell's Proposal for a new settlement, 22nd April, 1775. See Forrest : *Op. cit.* p. 505. But Francis seems to have been convinced. When examined by the Select Committee of the House of Commons (*Vlth Report*, p. 11) in 1782 Francis referred to the discussion in 1775, and added : "The result of later enquiries has in some degree satisfied him that, whatever criminal jurisdiction was exercised by the zemindars, it did not go much beyond petty offences ; he believes it did not extend to life or limb". On these points, however, Mr. Francis said, he did not presume to speak positively.

62. It may be observed that on 13th February, 1776, Hastings' government granted a sanad for the zamindari of Cooch Behar to Rajah Dhairyendra Narayan. The terms of this sanad are almost identical with those of the sanads cited in the text above. See Aitchison : *Collection of Treaties*, etc. Vol. i, p. 293.

63. *Mutasaddi*. A writer or clerk. 64. *Mukaddam*. The village head-man or representative.

65. *Fard-i-sawal*. Petition. 66. *Fard-i-hakikat*. A memorandum or report on the circumstances.

67. *Muchalka*. Counterpart covenant.

diligence and assiduity ; that he pay into the royal treasury the peishcush, etc., and the balances, according to kistbundy ; <sup>68</sup> and discharge year by year at the stated times and periods, the due rents, after receiving credit for muzcoorat, <sup>69</sup> nankar, etc., agreeable to usage ; that he observe a commendable conduct towards the class of ryots and common people at large ; and employ himself diligently in expelling and punishing the refractory ; and exert his utmost endeavours that no trace of thieves, robbers, and disorderly persons, may remain within his boundaries ; that he conciliate and encourage the ryots, and promote the advancement of cultivation, the improvement of the country, and the increase of its produce ; that he take special care of the high-roads, so that travellers and passengers may pass and repass in perfect confidence ; and, if at any time the property of any person shall be stolen or plundered, that he produce the thieves and robbers together with the property ; and, delivering the latter to the owner, consign the former to punishment : that in case he do not produce them, he himself become responsible for the property ; that he exert his vigilance that no one be guilty of drunkenness or irregularities of behaviour within the boundaries of his zemindary ; that he refrain from the exaction of the *abwabs* prohibited by the Imperial Court ; and that he deliver into the Dufter Khannah of Government the official papers required, conformable to custom signed by himself and the Canoongoes of the Soobah.

It is, therefore, required of the aforesaid persons that they regard the above-mentioned Ram Kunt as the authorized zemindar of pergunnah Rajshahy, etc. etc.

(From Verelst's View )

*Sunnud for the Zemindary of the Honourable East India Company's lands, given under the seal of the Nabob Allow o Dowla Meer Mahomed Saddoc Khan Bahader Assud Jung, Dewan of the Subah of Bengal.*

To Muttaseddies for affairs for the time being and to come, and Chowdrees and Canongoes, and inhabitants, and husbandmen of the Kismut <sup>70</sup> Purgunnah of Calcutta, etc. of the Sircar Sautgaum <sup>71</sup> etc. belonging to the Paradise of Nations, the Subah of

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68. *Kisti-bandi*. The document in the collector's hands showing portions of the annual assessment, dates when due, etc.

69. *Mazkurat*. Deductions allowed to cover the zamindar's expenses in collecting the revenues ; admitted fees, religious assignments, etc.

70. Kismut, correctly *kismat*. "Applied in revenue matters to a portion of land detached from a larger division as from a taluk or a pargana, especially if subject to a different jurisdiction." Wilson, *Glossary*.

71. Sautgaum, i. e. Satgaon, the ancient Hindu Saptagram (the seven villages), and the Portuguese Porto Piqueno. See an article by Lt.-Col. D. G. Crawford : 'Satgaon and Tribeni', in *Bengal : Past and Present*, Vol. iii.

Bengal. Be it known, that in consequence of the Ferd Sawal, signed by the glory of the Nobility and administration, Shujah ul Muluck Hossam o Dowla Meer Mahomed Jaffier Khan Bahader Mahabut Jung, Nizam of the Subah, and the Ferd Huckeekut and Muchulca, signed conformably thereto ; the forms of which are herein fully set forth. The office of the zemindarry of the Purgunnahs above written, in consideration of the sum of twenty thousand one hundred and one rupees (20,101) Peshcush, <sup>72</sup> etc. to the Imperial Sircar, according to the indorsement, from the month Poos (Anno 1164) in the year ,eleven hundred and sixty-four of the Bengal era is conferred upon the noblest of merchants, the English Company, to the end that they attend to the rights and customs thereof as is fitting, nor in the least circumstance neglect or withhold the vigilance and care due thereto ; that they deliver into the treasury at proper times, the rents of the Sircar ; that they behave in such manner to the inhabitants and lower sort of people, that by their good management the said Purgunnahs may flourish and increase : that they suffer no robbers nor house-breakers to remain within their districts, and take such care of the King's highways, that the travellers and passengers may pass and repass without the least molestation : that (which God forbid) if the effects of any person be plundered or stolen, they discover and produce the plunderers and thieves, together with the goods, and deliver the goods to the owners, and the criminals to condign punishment, or else, that they themselves be responsible for the said goods ; that they take especial care that no one be guilty of any crimes or drunkenness within the limits of their zemindarry ; that after the expiration of the year they take a discharge according to custom, and that they deliver the accounts of their zemindarry agreeable to the stated form every year into the Daftar Cana <sup>73</sup> of the Sircar ; and that they refrain from demanding the articles forbidden by the Imperial Court, the (Asylum of the World).

It is their (the Muttaseddies, etc.) duty to look upon the said Company as the established and lawful zemindars of those places, and whatsoever appertains or is annexed to that office as their right ; in this particular be they strictly punctual.

Dated the first of Rabbi ul Sauni <sup>74</sup> in third sun <sup>75</sup> of the reign.

Let the indorsement be wrote.

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To these requirements the petitioner for the sanad entered into an obligation by a muchalka which was inscribed on the sanad itself, and repeated word for word the requirements which have been quoted. It will be observed that the sanad, while it throws on the zamindar the duty of apprehending thieves, does not empower him to sit in judgment on them.

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72. Peshkash. Fee. 73. Daftar-khana. Office.

74. Rabia-us-sani. 4th month of Mahomedan year.

75. Should be the 5th sun (Verelst's note).

The subject of the police in Mahomedan Bengal is an exceedingly difficult one, because what research proves to be true of one district is probably untrue of another. It used to be a rather highly treasured belief that the village watch in Lower Bengal was a survival of the village system, which, it was supposed, "prevailed throughout Hindustan", but the special investigations conducted in 1865-66 by Mr. D. J. McNeile revealed the fact that, while "in the Western Provinces of Lower Bengal . . . and notably in Orissa, the village system has not been entirely swept away", ("the very general assignment of lands to the village watchmen in service tenure being in itself one of the most prominent of its surviving features") the existing village watch had been "instituted as a stipendiary force by the Zillah Magistrates within the last fifty years in all the districts of Chittagong, Dacca, and Nuddea and Rajshahy Divisions, except in part of Moorshedabad, and perhaps in the Nuddea and Jessore Districts".<sup>76</sup> Mr. McNeile's conclusion was that "in the part of Moorshedabad just excepted, throughout the Divisions of Patna, Bhaugulpur, Burdwan and Cuttack, the *general* character of the establishment is that of an immemorial institution."<sup>77</sup>

Under the ancient system the village watchman was employed to guard the persons and property of his fellow-villagers, and was maintained by small assignments of land and contributions of grain at harvest time. "As a rule," writes Mr. McNeile, "he belonged himself to some thieving gang, and his engagement as watchman was in fact an arrangement by which the villagers secured a partial immunity from attack by buying over one of the enemy".<sup>78</sup> It is conjectured that under the Mughal system the watchmen became enrolled on the establishments of the several zamindars, [xlix] were employed in the collection of the revenue as well as in their original occupation of the village watch, and were, with the other inferior local servants, rewarded by lands on *chakran* tenure.

The greater zamindars, it must be remembered, had considerable number of troops at thier disposal. In Burdwan, for instance, the English in 1760 found three distinct esablishments under the orders of the Raja :—

1. A military force ("nugdees") paid in cash from the Raja's treasury, their maintenance amounting to an annual cost of three lakhs.
2. A police force (thanadari).
3. A body of village watchmen and revenue collectors ("mal gram saran jami") maintained, as was also the thanadari force, by assignments of land revenue-free.

76. D. J. McNeile : *Report on the Village Watch of the Lower Provinces of Bengal*, Calcutta, 1866, p.4.

77. The names under which the village watchman appears in the District Records are infinite in number. See a partial enumeration in McNeile : *Op. cit.* pp. 8 & 9. Mr. McNeile mentions that the term "Chokidar" does not appear to have been attached, before the Decennial Settlement, to the village watchman, properly so-called, in any part of Bengal.

78. *Ibid.* p 5

The Rajas of Birbhum and Bishnupur must also have had considerable armies at their command, for upon those potentates fell the defence of the western frontier. In Birbhum we meet with a frontier police, known as ghatwals, described by Sir William Hunter as "for the most part adventurers from Upper India, Afghans and Rajputs, who were wont to hire out their northern vigour and trenchant swords to the aristocracy of Lower Bengal". In point of fact the ghatwals were not a rural police, although they had certain police responsibilities.<sup>79</sup> The consideration of the military forces at the disposal of the rajas is relevant to the matter under present discussion, because under the zamindari system, not only would the police proper have been used for purposes of enforcing the revenue collection and other duties equally foreign to their original employment, but the whole military force would have been available for the realisation of the leading zamindar's responsibilities in the matter of the preservation of the peace and the expulsion of gang-robbers.

The system of police as we have described it was broken down before the English came into power in the districts of Bengal. Nothing can be more eloquent or more convincing than the fact that the gangrobbers, of whom the English had a terrible experience, were marauders, not by individual choice or necessity, but by ancestral calling. "The dacoits of Bengal are not, like the robbers in England, individuals driven to such desperate courses by sudden want: they are robbers by profession and even by birth". So wrote the Committee of Circuit on June 28th, 1772.<sup>80</sup> The lesser zamindars not only concealed crime, because they would be held responsible if the facts were made known, but in the feeble condition of the Mughal Government, they purchased their own safety by collusion with the criminals.

[ 1 ] It is important that the student should remember that the land-revenue, through whatever channel it passed to the treasury, was taken from the immediate cultivator of the soil. It is therefore necessary, before closing the present chapter, that some account should be given of the conditions of the ryots.

To enumerate the different kinds of ryotwari tenure which a survey of rural Bengal reveals would be a lengthy, and, for our present purpose, an uncalled-for task; the distinction between the *khudkasht* and *paikasht* ryots is, however, essential to an understanding of the economic laws in process in the period of time covered by the English occupation.<sup>81</sup> The *khudkasht* (*khud*=own, *kasht*=cultivation) ryot cultivated lands in the village<sup>82</sup> in which he resided. Having erected his own dwelling, he improved

79. See Hunter: *Annals of Rural Bengal*, 3rd edn., 1863, p. 324, and Baden-Powell: *Land Revenue in British India*, p. 119.

80. Forrest: *Selection from the State Papers of the Governors-General of India: Warren Hastings*, Vol. ii. 289.

81. See an article on "The Khudkasht Ryot of Bengal" in the *Calcutta Review*, Vol. lxxvii, 1883.

82. The English reader must not be misled by the use of the familiar English word "village" in matters of Indian revenue. In connection with Indian revenue the village is not the cluster of homesteads only but an area of cultivated lands, in which homesteads may be congregated together or (as in the Rangpur district) even widely scattered.



the cultivation, and almost invariably took in more land than he actually accounted for with the revenue authorities ; this type of cultivator had obvious reasons for clinging to his holding. It is of this class of cultivator, Hastings writes : "the more valuable are those who reside in one fixed spot, where they have built themselves substantial houses, or derived them by inheritance from their fathers. These men will suffer much before they abandon their habitations, and therefore they are made to suffer much". A zamindar possessed of intelligence, it might be supposed, would not carry his oppressions so far as to drive a valuable cultivator to desert and so injure his own interest in the revenue collections. Whatever right the ryot might lay claim to, that right was subject to the conditions that the revenue was paid and the holding was cultivated : and these conditions fulfilled, the zamindar who attempted to oust the ryot, in order to instal one who offered an increased payment, would be regarded as acting unconstitutionally.

The Paikasht (*pai*, corruption of *pahi* from *pah*=*pas*, near, and so non-resident) ryot held his holding in a village to which he did not belong. "The vagrant reiat", Hastings continues, "have it in their power in some measure to make their own terms with the zemindars. They take land at an under-rent, and hold it for one season : the zemindar then increases their rent or exacts more from them than their agreement, and the reiat, either desert, or if they continue, they hold their land at a rent lower than the established rent of the country. Thus the ancient and industrious tenants ( *i. e.* the khudkasht ryots) are obliged to submit to undue exactions, while the vagrant reiat enjoy lands at half-price, which operates as an encouragement to desertion and to the depopulation of the country".<sup>83</sup>

It has been said that prudence might have dictated to the zamindar the necessity of keeping the khudkasht ryots on their lands, but [ *li* ] unfortunately the zamindars were not liberally endowed with that virtue.<sup>84</sup> Again constant rebellions, the menace of the Marathas, the raids of gangrobbers, etc. etc. were alike calculated to produce a state of things in which the necessity of flight would gain the advantage of love of an inherited hearth and home. In a European country in our own time, peasants have been known to consult lawyers as to the best way of getting rid of their rights as parliamentary electors, and it can be well understood how, with severe demands of revenue to satisfy, the ryot's predominant anxiety would be to dispossess himself of

83. Francis *Op. cit.*, p. 154.

84. Francis argued that the zamindar and ryots "if left to themselves, will soon come to an agreement": to this Hastings replies : "this would be a just conclusion, if the zemindars were all capable of distinguishing what was for their advantage. But it is a fact, which will with difficulty obtain credit in England, though the notoriety will justly me in asserting it here, that much the greatest part of the zemindars, both of Bengal and Bahar, are incapable of judging or acting for themselves, being either minors, or men of weak understandings, or absolute idiots. This circumstance, and the consequent oppressions, which are exercised by those who act for them, without any interest in the prosperity of the zemindary, render it necessary to provide for the security of the Reiat by checks and regulations. Francis: *Op. cit.*, pp. 153-54, Sir John Shore may also be quoted in confirmation of Hastings' view of the incapacity of the bulk of the zamindars.

so costly a right to the soil. The khudkasht ryot, when he abandoned his holding, joined the ranks of the vagrants, and thus, gradually a tenure dependent on status was, under the working of the law of supply and demand, changed for tenure by contract. The famine and pestilence of 1769-70, resulting in an estimated loss to Bengal of one-third of its inhabitants, necessarily increased the tendency of the remaining resident cultivators to wander abroad in search of holdings on more moderate terms.<sup>85</sup>

85. In this paragraph I have followed the lines of Sir William Hunter's argument in his Introduction to *Bengal Ms. Report* : but I venture to express the opinion that it will be necessary to sacrifice lucidity of his argument in the interest of a number of historical facts relative to the tenure of the ryots ; e. g., the diminished revenue demands on ryots known as jotedars, ganthedars, etc. etc., on the terms that they would realise revenue from their dependents. There were ryots who, in the records, appear as zamindars looked at through the other end of the opera-glass. The creation of this class of ryot must have, at least to some extent, counterbalanced the economic process so clearly traced by Sir William Hunter. See Westland : *Op. cit.* p. 91 ; Seton-Karr : *Cornwallis* : ("Rulers of India" series), p. 56, and Glazier : *Further Notes on the Rungpore Records* for T. Sisson's account of Purja (Prajā=subject) ryots.



### CHAPTER III.

#### THE COMING OF THE ENGLISH TO BENGAL, 1630—1698

[ III ] In the year 1620, English pioneer merchants from Surat had reached Patna, by way of Agra, but this early attempt to found a commercial settlement in Behar was soon abandoned.<sup>1</sup> Eleven years later Thomas Robinson made an effort to reach Bengal. He left Masulipatam, on 29th July, 1631, but his ship, the *Hopewell*, was compelled by foul weather to return. In the following year, Thomas Woodson sailed for the Bay in the *Pearl*, to barter lead, quicksilver, vermilion, cloth, etc., for rice, butter and cloth, etc., and to discover what opportunities for trade Bengal could offer, but contrary winds compelled the *Pearl* to return without completing the voyage.<sup>2</sup> In 1633, the Company's agent at Masulipatam, finding it necessary to obtain a more liberal supply of cloth than that place could afford, despatched eight Englishmen by country boat to the coast of Orissa. A picturesque account of this journey, by William Burton, is to be found in Osborne's *Collections of Voyages and Travels* (1752). After describing the visit to the Durbar at Cuttack, Burton writes: "The ninth of May we gathered together all our things and at night departed from Coteke. The tenth, at the hour of two in the afternoon, we came to the town of Harharrapoore, and rested in the house of our interpreter. The eleventh day we went to the Governor of the town, and shewed him our fermand (farman), or commission from the king: the governor made a great *salame*, or court'sy in reverence unto it, and promised his best assistance and help in everything that he could do: and there the said governor had a small present given him. The twelfth day of May Mr. Thomas Colley came to us at Harharrapoore, and the rest of the English with him, with all the goods: there we hired a house for the present, till such time as ours might be built, for our further occasions to the Company's use . . . . The fourteenth day the two merchants went abroad, and found out a plot of land to

1. This fact is mentioned by Stewart (*History of Bengal*, 1847, pp. 140-41) who refers to "Vol. 1 of *India Records*, 1620", a reference now impossible to verify. Yule (*Hedges Diary*, Hakluyt Society) conjectures that if the English indeed reached Patna at an early date the advance must have been made from the Western coast. Mr. Foster has given the documentary proofs in his *English Factories in India, 1618-1621*, p. 191 *et seq.*

2. C. R. Wilson: *A Note on the English Chiefs at Balasor, 1633-50*. 1906 (unpublished pamphlet). See Foster: *English Factories in India 1630-33*, p. 244.

build upon ; then they laid the King's deroy<sup>3</sup> on it and seized upon it for the Company's use ; and there was no man that did or durst gainsay them for doing the same".<sup>4</sup>

[ III ] The farman referred to by Burton cannot be traced, and it is possible that the document may have been not a farman from the Emperor, but a rescript from the Subahdar of Orissa or Nawab at Cuttack. The important thing to be noticed is that the Company's servants in their early days in Bengal were under a pathetic delusion that the Mughal Empire was so compactly organised that the written word of "the King" (as they called the Mughal) would be regarded as law by all his subordinates. President Methwold indeed had a deeper insight into the real state of affairs, and it would have saved the Company much expense and repeated disappointments had they been guided by the President's wise words (written on 28th April, 1636) : "the King's commands (for so much the word farman doth imply) are as easily procured as other princes' ; for, if there be no powerful oppōser, they are almost as easily had as the charges are disbursed. And, when you have them, they are no more esteemed than things so easily purchased ; whilst everyone honours the Kinge, but no man obeys him. And so it comes to passe that his firmaun doth neither inforce us to Piply nor yet exclude us from Harriupore, which latter place wee doe only frequent. So that matters not much, if peace be made with the Governor, what the Kinge shall please to command or forbid, except some neibour Governor find himselfe prejudiced".<sup>5</sup>

It would seem that the English were obsessed by the fallacy that a farman from the Emperor would be as binding and efficacious as was their own Charter from the English Crown. They sought to obtain concessions which once granted would not be subject to be worked at the Emperor's pleasure, whereas to the Mughal this doctrine as to the limitation of his discretion by farmans would probably have seemed strange and undesirable. The English failed to understand that the Mughal Empire was something *sui generis*, and they emphasised their misunderstanding by expecting from the Delhi Emperor pledges, which, under a Government so loosely held together, were impossible. Even after the English had provided themselves with a fortress and the means of offering retaliation for real or fancied injuries the concessions accorded to them in 1717 proved nugatory, because, whatever the Mughal might choose to order his Viceroy at Murshidabad would not allow the Company to realise their rights. It was not till 1765 Clive won from the Emperor irrevocable concessions but at that date the military supremacy in Bengal had been transferred to the English.

3. C. R. Wilson explains this word : "Mar. Durahi or Tel. durai : a prohibition in the King's name for anyone to have anything to do with them till that be taken off." The late Mr. William Irvine, in a private letter writes : "This passage is of considerable importance in its bearing on the hotly contested question of private property in land. In this instance, when the ruler required some land he ordered it to be taken without payment." This durai was the act of Agha Muhammad Zaman, the Nawab or Governor of Cuttack.

4. C. R. Wilson : *Early Annals of the English in Bengal*, vol. 1, p. 15. Hariharapur or Hariharpur at the mouth of the Patali, or Patna river, is between Cuttack and the ancient harbour of Harisipur.

5. Foster : *The English Factories in Bengal, 1634-36*, p. 204.

There is ground for believing that in 1634, the year following the foundation of factories at Hariharapur and Balasore by Cartwright, the English at Surat received from Shah Jahan a *farman* permitting their merchants to trade in Bengal, but restricting their ships to the Port of Piple.<sup>6</sup>

[liv] Stewart, however, is in error when he says that it was at Pipli "the English established their first factory in Bengal."<sup>7</sup>

In 1650 the factory at Hughli was founded. The picturesque tradition of Gabriel Boughton and his services in restoring the health of Shah Jahan's favourite daughter, the poor burned Princess Jahanara, and of the reward he so unselfishly claimed in trading privileges for the Company, cannot be wholly trusted ; but Mr. Foster's recent researchs<sup>8</sup> have made it appear extremely probable that it was due to Boughton's influence with his patron Sultan Shuja that, in 1651, the Hughli factors obtained a *nishan* from Sultan Shuja, then residing as Subahdar of Bengal at Rajmahal,<sup>9</sup> and by the terms of this *nishan*, for which was paid a *peshkash* of three thousand rupees, the English were permitted to trade free of duty.<sup>10</sup> This precious document was lost when Paul Waldegrave fell among thieves and was robbed of his and the Company's possessions on the road from Balasore to Masulipatam. To supply the place of so essential a credential, a "Mr. Billedge" repaired to the Court of the Prince at Rajmahal, and thanks to the offices of "James Price,—that was Mr. Boughton's servant," obtained a *nishan*, identical in terms with the one that had been stolen.

Sultan Shuja, it will be remembered, was the second son of the Emperor Shah Jahan. The story of his attempt to secure the throne of Delhi, of his defeat by his third brother, Aurangzib, and of his murder by the Arakanese, forms a memorable chapter in the history of the Mughals. In after times the subahdari of Sultan Shuja came to be regarded as an epoch of good and equitable administration, and the decline of the Mughal rule in Bengal has been held to date from 1659, when the ill-fated Prince set

6. The object of this restriction was perhaps to prevent the English becoming too powerful at Hughli, whence the Portuguese had been expelled in 1632. Mr. Foster shews that Dr. Wilson's scepticism as to Shah Jahan's farman of 1634 is not justified. In 1621 that Emperor, when Prince Khurram, visited Pipli, and named it the "Royal Port, Shah Bandar." The town has been completely washed away.

7. Stewart : *Op. cit.*, p. 154. Field (*Regulations of the Bengal Code*, introduction) wrongly gives 1642 as the date of the commencement of the Balasore Factory. The error is repeated on p. 173 of vol. I of Aitchison's *Treaties*. (4th edition).

8. *Indian Antiquary*, vol. xl, September, 1911, art. "Gabriel Boughton and the Grant of Trading privileges to the English in Bengal" by W. Foster.

9. Sultan Shuja had removed his capital from Gaur to Rajmahal (or Akbarnagar). See Stewart : *Op. cit.*, p. 156.

10. A copy of the *nishan* will be found in the MS. collection of Charters and Treaties at the India Office, vol. ii, pp. 5—8. A translation is given by Stewart, *Op. cit.*, Appendix No. ii, and Sir R. Temple : *Op. cit.*, vol. ii, p. 21. The date given in the copy found in *Stroynsham Master's Diary* is "the year of Hegira one thousand sixty-six (April, A.D. 1656) in the 28th year of the Emperor Shah Jehaun (Shah Jahan) his glorious reign." Dr. C. R. Wilson's reasoning about the date, however, has been, disposed of by Mr. Foster's researches.

out to play his part in the fratricidal struggle for the Peacock throne. An account of Hughli written by Walter Clavell in December, 1676, perhaps gives a better date to fix the period of decadence :

“Hughly having the advantage of situation upon the banks of the river Ganges, whose branches come far from the country above, and spread wide thereabouts, was in former times in the possession of the Portuguese, who in their prosperity sailed to it yearly from India and Malaya with 60 : 80 : to 100 : vessels, and since the loss of it to the Moors, which happened about 42 years since, hath continued to be a scale (emporium) of great trade, having the King’s mansabdars for governors, who were put in by and answerable to the Nabobs of Bengal, who reside [ *lv* ] at Rajmahal or Dacca, as they pleased. So long as it continued thus governed by the Moors, justice was more exactly administered and complaints made against the King’s officers took place, particularly in the favour of strangers. But since the year 1663, or thereabouts (really 1666) that Nabob Shaistah Khan, the present King’s uncle became Suba, or Viceroy of Bengal, and obtained Hughly as part of his *jagir* (or lands assigned him for his person), his servants being made so far governors as to receive all the rents, profits, perquisites, fines, customs, etc. of the place, the King’s Governors hath little more than the name, and for the most part sit still while the Nabob’s Officers oppress the people, monopolise most comodities, even as low as grass for beasts, canes, firewood, thatch, etc. nor do they want ways to oppress those people of all sorts who trade, whether natives or strangers, since whatever they do when complained of to Dacca, is palliated under the name and colour of the Nabob’s interest ; and that the Nabob’s officers may, without control, drive the trade of the place, there is sent from Dacca, or detained out of the rents, twenty or forty thousand rupees yearly to be employed in merchandise which is distributed amongst the Hindu merchants of the town, to each in proportion, for which they agree to give twenty five per cent per annum, but are called upon at six or eight months’ end to make up their accounts and pay the principal with advance of a year, by which means, calling in their principal and interest so often, it sometimes happens that the merchants pay 50 per cent to the Nabob and Governors per annum, draining themselves by this unhappy trade with him and his Ministers of the whole advantages they make of their other traffick. And yet, as if this were not enough to impoverish them, the Governor, whenever he hath any goods on his hands, calls for them, and distributes amongst them what quantity he pleaseth, at 10 to 15 per cent higher than the market’s for time, and they pay ready money. Nor doth this exempt them from piscashing the Nabob’s Karoris or Governor with small presents at all feasts his or his son’s birthdays, circumcisions, marriages, or his going to and coming from Dacca, making up accounts and compounding for his rogueries. Nay, it hath in my time happened that, when the Nabob and his officers at Dacca have squeezed him much, and yet he is so lucky to return to his former employment, there hath been a tax laid upon the whole government under hand for the raising of the sum expended, which some one or two

fearful persons have been brought on to comply with, and afterwards none of the rest have dared to withstand.”<sup>11</sup>

[Ivi] This passage is full of important points. It brings out in the clearest way the evil of the divided government, the King's officers and the Nawab's : and it reveals highly placed Mughal authorities in the character of unscrupulous and oppressive merchants. The interest taken by the Nawabs in trade may be illustrated by a fact recorded of Prince Azim-ush Shan. “The Prince”, writes Stewart, “wished to become the sole merchant of all European and foreign goods brought to Bengal ; he, therefore, established agents at all the ports, with authority to purchase the cargo of every ship that arrived, at a low price ; and after-wards retail the goods to the merchants at a considerable profit. To this species of commerce was assigned the epithets of *soudai khas* or *soudai aam*, special and general purchases.”<sup>12</sup>

Despite the oppressions complained of the commercial undertakings of the English prospered, and from Hughli they despatched their merchants up-country. In order to procure their “investment”, it was necessary that the merchants should make advances of money to the native manufacturers, and experience soon showed the necessity of a constant watchfulness over all to whom advances had been made. If the weavers would not come to the English, the English were bound to go in search of the weavers. The factory of Cossimbazar was opened before 1658. In 1659 the English were once again in the neighbourhood of Patna.<sup>13</sup> The Company in its letter of January 4, 1658, sanctioned a factory for Dacca, but, although Jean de Thevenot in 1666 speaks of the English house in that city, Dacca apparently did not enjoy the dignity of having a chief of its own until the year 1669. As the Company sent its bullion to be coined at Rajmahal the advantage of a settlement near at hand was perceived, and on October 14, 1676, Streynsham Master records in his Diary : “Mr. Richard Edwards, being now going with the Honourable Companyes treasure to the Mint at Rajamaull, it is thought fitt that, so soon as he shall put that business in a good forwardness he doe make a step over to

11. *The Diaries of Streynsham Master, 1675—80, and other Contemporary Papers relating thereto* (Indian Records series 1911). Edited by Sir Richard Carnac Temple, Bart., vol. ii, pp. 79-81. Clavell arrived in London on 16th May, 1668. In 1670 he became “Chief in the Bay”, and died at Balasore on the 3rd August, 1677. I have modernised the spelling in this passage, and adopted in one sentence the more reasonable reading suggested by Sir R. C. Temple.

12. Stewart : *Op. cit.*, p. 218. *Soudai*=*sauda*, traffic. *Aam* signifies the public as opposed to *khas*, the nobility.

13. See Jonh Marshall's “Accompt of Pattana” written December 16th, 1676 : “The Honourabl Company hath noe Factory here, but what hire, nor doth the Chiefe usually reside there, by reason the Nabob's Pallace is in the City, and his servants and officers are constantly craveing one thing or another, which, if not given, though they have not what they desire (*sic*) yett they are not satisfied therewith but creat trouble ; and if given what they desire, will be very chargeable. Which inconveniency is prevented by living at Singee, which lyes north of Pattna, about ten or twelve miles *Extra Gangem*, and is scituated in a pleasant but not whole (some) place, by reason of its being most saltpeter ground, but is convenient by reason thereof, for salt-peter mēn live not far from it.” *Diaries of Streynsham Master*, vol. ii, p. 89. Yule (*Diary of William Hedges*, vol. ii, p. 241) identifies Singee with Singhiya near Lalganj. For dates in text see *Ibid* pp. 194-95.



Maulda to lay out the same in all sorts of goods before mentioned, and to informe himself well of the trade in the place, and to give the Councell an account thereof in writing." All this Mr. Edwards performed, but it was not till 1680 that the factory in Malda, or rather in its proximity, was founded.

The Malda Diary, commencing April 22, 1680, affords some striking instances of the evils wrought by the double government of the faujdars and the revenue officials. On April 10th, we read :

[ lvii ] "Yesterday and to-day the town of Maulda was put to a great alarm, both our Bhausdar and Crowry (*Krori* <sup>14</sup>) preparing to fly for fear of one Saddtbun Cawn (formerly a Hindoo of these parts whoe is come from the King with a company of 4, or 500 horse, pretending to have a phirmaund for his haveing the place of Congoy (*Kanungo*) and for breaking a Hindoo pagoda by Binood Rayes house in Sawazaan, where he now is. It is also reported that by beating an old woman of Binood Rayes household into confession, (he) has found 2½ lack of rupees, which he takes as his owne and also 25 : Turkey horses out of his stable and since has killed the old woman that told him of the mony and 2 or 3 men at the dore of the house entering in and other of Hunaraine's servants he imprisons and has forced some to turn Mussellmen".

A week later the Factors heard with relief that "Sadutbun Cawn was removed from Sawajeon and intended for Razanull". The following passage (September 12) gives us the Faujdar's portrait in miniature : <sup>15</sup>

"About 1 : a clock at night a broad iron pointed arrow was shott into our house and almost hit a pion (peon) that slept at our dore : whereupon a great complaint was made to the Fousdar withall threatening him to send the arrow to Dacca, etc., if he would not give us satisfactory justice ; whereupon he seemed very hott on our side, but that was soon cooled after he had ransacked all the widoes, moodyes and weavers houses about us and taken away from them who probably never had an arrow in their lives (and called many people to see his zeale for justice) which was all he gott".

During the struggle between the sons of Shah Jahan, the Faujdar of Hughli and the English had come to an agreement that in return for its privileges of free trade in Bengal the Company should pay an annual peshkash of Rs. 3000 to the Subahdar. Mir Jumlah, the general who had driven Sultan Shuja to his flight and doom, remained as Viceroy in Bengal, and removed the seat of his government from Rajmahal to Dacca. In 1660 the English ventured to retaliate for the detention of one of their saltpetre boats by seizing one of the Nawab's vessels. An humble apology to the Nawab terminated this incident, but the event had its significance, Mir Jumlah's death in 1663-64 seems

14. *Krori*, a revenue collector to the extent of a *kror* of dams, generally an overseer.

15. *The Diaries of Streyntsham Master* afford several instances of the need in which the English stood to humour two rival authorities, e. g. "This day Mr. Clavell, Mr. Vincent, and myself made a visit to the King's Fousdar, and to Bull-Chahd, the Nawab's Governour of Muxadavad." Vol I, p 365. "Visited our new Governour for the King, Meer Reeze (Mir Riyaz), as also Ashmutt Cawn (Azmud Khan) Governor for the Prince." Vol. II, p. 298.

to have been the result of the arduous endured during his expedition in Assam. He was succeeded in the Subahdari by Shaista Khan, a great magnate of the Imperial Court, and a maternal uncle of the Emperor Aurangzib. Stewart observes that "although no English vessels were allowed to sail up the Ganges before his (Shaista Khan's) time, viz. A. D. 1664, yet it appears that, in the year 1669, the [ lviii ] East India Company had, by his permission, formed a regular establishment of pilots, for conducting their ships up and down the river. Shaista Khan also, in the year 1672, granted them an order for freedom of trade throughout the province, without the payment of any duties."<sup>16</sup> In Shaista Khan's time, it is said, the French and the Danes commenced their commercial activities in Bengal.<sup>17</sup>

It would be beside the purpose of the present work to attempt an enumeration of the various commercial negotiations which took place between the Company in Bengal and the successive Subahdars. The tendency of the Mughal officers, under Aurangzib was to deal with the English as infidels, and therefore subject to the infliction of the poll tax or *jizia*. At Surat, moreover, the Company paid a duty of  $3\frac{1}{2}$  per cent on its goods, and it was claimed that a similar duty should be paid in Bengal. The English had indeed secured a *farman* from Aurangzib but this document, dated 1680, admitted of being read in two different ways.<sup>18</sup> The high-water mark of privilege in fact was represented by the concession of the right to trade duty-free in consideration of the payment of an annual sum of Rs. 3000.

16. Stewart, *Op. cit.*, p. 189. Shaista Khan held the Subahdari of Bengal from A.D. 1663-64 to 1667, and again from 1679-80 to 1689.

17. Stewart (*Op. cit.*, p. 190) writes: "It was during the government of Shaistah Khan, that is to say about the year 1676, that the French and Danes established themselves in Bengal." Apparently the French first settled in or close to Hughli. In 1688 Andre Boureau-Deslandes was appointed Director-General of Commerce in Bengal, but, having quarrelled with the Portuguese Augustinian friars, in 1690, he retired to Chandarnagar, and commenced a *loge* there. On January 16th, 1692 the Calcutta Council write that "the French had almost completed a large factory at Chandarnagar." The General letter from Fort St. George [Madras], dated 20th November, 1691, records "the Mounseers have been long idle and quiet at Pullichery . though their Chief in Bengall is building several large factoryes, bigg enough for a mighty trade but "is doubted too large for their stock." See *Storia do Mogor*, edited by W. Irvine, vol. iii, p. lxxiv and *Bengal: Past and Present*, vol. iv, pp. 616-17, vol. v, pp. 342-45 [contributions by W. Irvine and A. Lehurax] and vol v, for an article "Notes on the Head-quarters of the French East India Company at Hooghly" by Charu Chandra Roy. Streynsham Master in September, 1676, writes: "less than two miles short of Hughly we passed by the Dutch garden, and a little farther by a large spot of ground which the French had laid out for a factory, the gate to which was standing but was now in possession of the Dutch" *Diaries of Streynsham Master*, vol. I, p. 325. The Danes had an entrenched factory at Balasore, *Op. cit.*, vol. I, pp. 319-20. The Danish settlement at Serampore was not commenced until 1759.

18. In the Name of God, Amen. To all present and future rulers in Surat that remain in hopes of the Emperor's favour. Be it known that at this happy time it is agreed of the English nation besides their usual custom of two per cent, for their goods, more one and a half per cent *zizyah*, or poll-money, shall be taken. Wherefore it is commanded that in the said place, from the first day of Shawal. in the 23rd year of our reign, of the said people three and a half per cent of \*

*English reading*—All their goods, on account of custom or poll-money, be taken for the future. And at all other places, upon this account, let no one molest them for custom.

[11x] The English had thus entered Bengal as the humble servants of a trading Company, and for freedom and protection in their commercial operations they relied on the good will of "the country powers." The farmans and parwanas expressive of this good-will, however, were regarded by them as definite concessions of legal rights, and it was not in their nature to forego meekly any right they believed had been formally conceded to them. Nor could it be forgotten that the Charter granted to the Company in 1661 empowered its Government "to erect fortifications, to raise troops, and make war with non-Christians." The necessity of protecting their commerce by the establishment of a fortrees came into view, and as this necessity comes to be understood, the history of the English in Bengal passes into its second phase.<sup>19</sup>

In the year 1682, the Company, in consideration of the great increase in its Bengal investments, and no doubt elated by the receipt of Aurangzib's farman, made Bengal independent of Madras, and despatched William Hedges, one of their directors, to be their chief Agent or Governor in the Bay of Bengal. The new Governor came to his task with a belief in his own superior power of negotiation, and for a time there was revival in the confidence formerly reposed in farmans and parwanas. Although Bengal had twice been visited by the Company's Governor of Fort St. George, and attempts had been made to remedy evils, yet in 1682 the trade at Hughli came to "a general stop." In October of that year finding "the several affronts, insolences, and abuses daily put upon us by Boolchund (Balchandra), our chief customer. . . . grown insufferable,"<sup>20</sup> Hedges resolved to proceed to Dacca, and lay a complaint before Shaista Khan. The

*The Nawab's Reading*—All their goods, on account of custom, or Poll-tax, be taken for the future, and at all other places. Upon this account let no one molest them for customs.

*Rah-dari, peshkash, farmaish*, and other matters made by the Emperor's Court forbidden, nor make any demands in these particulars. Observe Written on the twenty-third day of the month of Cafar, in the twenty-third year. Wilson : *Early Annals*, vol. ii, p. 78.

In an unpublished note, Mr. Irvine explains :—

"*Rah-dari*. The evolution of the word seems as follows : [1] Rah dar, guardian of a road ; [2] Rah dari, either the safe convoy, or the office of the Rah-dari itself ; [3] Rah dari, the sum realised to pay the guards ; [4] Rahdari, a transit duty pure and simple.

"*Peshkash*. I should myself prefer the etymology of peshkashdar 'to bring or lay before anyone.' Thus *peshkash*—a thing laid before someone, *i. e.*, a gift, all gifts to superiors being solemnly produced and accepted.

"*Farmaish*. [Wilson defined the term as 'commission for goods']. As 'Commission' in common usage means a 'percentage allowed to someone', would not 'order for goods' be preferable ? *Farmaish* means a requisition for goods issued by a superior to an inferior official. These were not always paid for or allowed."

19. The subject of the Company's sufferings at the hands of unlicensed European traders, "interlopers" as they were called, is too large a one to be handled in this work, but it should be pointed out that the natural refusal of the Mughal authorities to expel the Company's rivals was regarded by the Company's officials as an infidelity to agreements.

20. *The Diary of William Hedges Esq. [afterwards Sir William Hedges]*. Transcribed for the Press with Introductory notes by R. Barlow, and illustrated by copious extracts, etc. by Colonel Yule. R. E., C. B., L.L.D. Hakluyt Society. 1887. vol. i. p. 32.

events which followed this resolution are deeply significant. Paramesvar Das, the local revenue authority, allowed the Governor and his escort to set sail, but secretly despatched armed parties to seize the little fleet higher up the river. After an affray, full of ignominy for the English, and five days spent in humiliating disputes, Hedges made off for Dacca by night. In the course of the journey he met with further molestation, but ultimately reached Dacca on the 29th of October. At the Capital, Hedges spent some six weeks in negotiations, and came away flattering himself :

“My going to Dacca has in ye first place got 7 months time for procuring a *phirmaund* (*farman*) ; 2ndly, taken off wholly [~~ix~~] ye pretence of 5 per cent custom on all treasure imported this and ye three preceeding years, besides 1½ per cent of what was usually paid, at ye mint for some time past ; 3rdly, procured ye general stop to be taken off all our trade, our goods now passing as freely as ever they did formerly ; 4thly, got a command to turn Permesuradars (Paramesvar Das) out of his place, and restore ye money forced from us ; 5thly, and last, prevailed upon ye Nabob to undertake ye procuring a *phirmaund* for us from ye King. . . . If God gives me life to get this *phirmaund* into my possession, ye Hon’ble Company shall never more be troubled with interlopers. I bless God for this great success I have had, beyond all men’s expectations, in my voyage to Dacca.”<sup>21</sup>

All these expectations were to prove the merest illusions ; but elated with his supposed successes, Hedges now felt that his hands were free to accomplish a complete reform of the Company’s service. Like Clive in 1765, Hedges in 1682 believed that he had an Augean stable to cleanse. Clive indeed succeeded in driving from Bengal the men he charged with corruption, but this was at the cost of finding them again in England not only relieved of the charges by which he had attempted to ruin them, but supported by a majority in the Court of Proprietors and in a position to make his own acts the subject of a busy and incessant persecution. Hedges had neither the position nor the personal power of Lord Clive. He displaced subordinates, but dared not attack the superior servants, who, despite local scandals connected with their names, were well known to enjoy the confidence of the Company in England. Having thrown the Company’s establishment into confusion, on July 17, 1684, Hedges received the bitter news that he himself stood dismissed.

In the meanwhile the Company in England had been slowly coming to see the futility of their past confidence in privilege on paper. Hedges had some years past, suggested to them that a quarrel with the Mahomedan authorities being inevitable, they would do well to risk the loss of one year’s trade in the Bay and build a fort on the Isle of Saugor. In the despatches of December 21st, 1683, in which Hedges’ dismissal was ordered, they say that, after a discussion of the matter, they had concluded that seizing one of those pleasant islands in the Ganges and the “Braces”, would be far too expensive and calculated to bring the Dutch to the assistance of the Mughal. An attack on the latter might be more efficiently commenced from Bombay than from Bengal, but, if war

21. *Ibid*, vol. i, p. 62.

there must be in Bengal, why not seize Chittagong ? This, however, was made as a purely academic suggestion. A few years later, the Court had developed a military spirit, and in 1686, having obtained permission from James II, they ordered the Governor of Bombay to withdraw from Surat, and the dependent factories, and to direct his ships to seize those of the Mughal. The chiefs and factors [ixi] in Bengal were to retire to Balasore, where they would be taken on board by the fleet, which was about to bring to India a powerful army. It was enjoined that, as the Nawab at Dacca would in all probability make no reply to an ultimatum which was to be sent him, the troops were to take possession, by force if necessary, of the Town, Fort, and Territory of Chittagong, and "our Lieutenant-Colonel Job Charnock" was thereupon to be installed as "Governor of our Fort, Town and Territory of Chyttegam".<sup>22</sup>

In the year 1686 Job Charnock, having given the slip to the guards placed round his house at Cossimbazar to prevent his departure, arrived at Hughli, and assumed the office of Chief at the Bay. Before the close of the year troops from England to the number of nearly three hundred had been landed in Bengal, and quartered in the neighbourhood of Hughli. The squadron sent out consisted of six ships, each with its company of soldiers ; but of these ships three only reached the Bay, viz., the *Beaufort*, commanded by Captain John Nicholson with 70 guns and 300 seamen, the *Nathaniel* commanded by Captain Mason, with fifty guns and 150 seamen, and the *Rochester* with twelve guns and twenty seamen. The Company in India also could supply a number of vessels well adapted for the purpose of river conflict. In addition to the soldiers sent out for the campaign, the Company had already at Hughli a motley band of fighting men—native Christians and half-caste Portuguese, known as 'topasses', Rajputs, and native peons. The Nawab, on the other hand, was easily able to despatch three thousand horse and three hundred foot to guard the town, and the Governor, Abdul-Gani at once, raised a battery of eleven guns to threaten the English shipping in the river. On October the 28th, the ill-treatment of three English soldiers, who had gone as usual into the bazar, where they had been seized and beaten, led to the outbreak of hostilities. The fighting of that day went in favour of the English, of whom but one man was killed, although in the attack on the battery many were wounded. The enemy lost about sixty killed, and it was believed that Abdul-Gani disguised himself and fled panic-stricken.

The English factory, however, had been burned, and Charnock, who had been intending to abandon Hughli for some time before the actual outbreak, realised that the cessation of hostilities, agreed upon after the conflict of the 28th, was but breathing space in which he had best prepare for a withdrawal. Not till December the 30th did the English leave Hughli, and in their ships sail down the river to Sutanuti, the site of the northern quarter of modern Calcutta. For a time it seemed that Shaista Khan, who had despatched an agent to negotiate, would accept the English demands, but in February it became clear that the Nawab was only seeking to gain time for preparations

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22. Wilson : *Early Annals*, vol. i, p. 90,

designed to drive the English from Bengal for ever. On February the 9th, Charnock burned down the King's salt-houses, and on the 11th captured the Thana forts a little below Kidderpore on one side of the river and [ lxii ] Sibpur on the other. While Charnock was so employed, Nicholson had taken possession of the island of Hijili.

From this island place of refuge, the English put the important town of Balasore to the sack. The trying months of March and April were bravely endured ; but the number of the dead and dying increased, while the Mughal forces were known to be gathering round in stern league. In the middle of May Shaista Khan's General, Abdu-s-Samad, had reached the neighbourhood of Hughli and with him were well-nigh twelve thousand men. On May the 28th some seven hundred Mughal horse and two hundred gunners ferried the Rasulpur river, and attacked the English fort. Only after a most desperate fight the English drove off the foe. On the first of June seventy men, fresh from Europe, arrived under the command of Captain Denham, and proved their worth on the following day by a successful sally from the Fort. Having observed that the appearance of this fresh force had disconcerted the enemy, Charnock hit upon the ingenious plan of secretly smuggling a number of sailors, in pairs, out of the Fort, and then when they had formed themselves into a smart little company on the landing place, marching them up to the Fort, with drums beating and flags flying, looking to all the world like yet another band of recruits brought hither from the seas by the ships. The ruse succeeded, and on June the 4th Abdu-s-Samad exhibited a flag of truce. An exchange of hostages was made, and the English hostages were instructed in the demands of the English on the Nawab. Then, on June 18th, Job Charnock's little army marched out of the Fort, with all their warlike supplies, and drums beating and flags flying. The record of those three months at Hijili is one of which our nation may well be proud.

From Hijili, Charnock and his party went up the river to Ulubaria where they remained three months, waiting for some effect to be given to the understanding entered into with Abdu-s-Samad. In September they returned to Sutanuti "as well for a recruit of provisions as for spinning out of this monsoon," but with a firm resolution not "to settle nor trade till he (the Nawab) confirm these last articles and give us some security against any demands of damages that arise against us hereafter".

News of Charnock's doings had in the meantime reached the Court in England, and, at the beginning of 1688, a certain Captain William Heath was despatched with a fleet of ten or eleven ships. Heath's instructions required him to visit the Bay, take charge from Charnock, and capture Chittagong. On September the 20th, the Captain reached Sutanuti and almost immediately informed the Council of the nature of his orders. The story of the wanderings of the Bengal factors, with the braggart Captain Heath as their guide, read more like a boy's book of adventures, or a chapter in prose from the "Hunting of the Shark", than real history.<sup>23</sup> On the 8th of November the English

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23. Vide *Bengal: Past and Present*, vol. iii, "A Document of the Charnock Time" by W. Foster ; Wilson : *Early Annals*, vol. i, p. 115 et seq ; Yule : *Diary of William Hedges*, vol. ii, p. 79 et seq.

again left [Ixiii] Sutanuti, and on the 16th reached Balasore, with Heath engaged in fighting and negotiating in turn. Chittagong was reached on January the 18th, at which place the Captain's transactions were devoid alike of honesty and common-sense. He intimated to the Governor that he had come, according to an agreement with Mughal, to assist in reducing the King of Arakan, but while he thus greeted the Governor as a friend and an ally, he was in fact consulting the Council as to the advisability of making an attack on the Town. He then sailed off to offer his services to the King of Arakan, who however had no use for the services of the gallant Captain. Abandoning to his fate an unfortunate envoy who had been despatched on some mad errand, Heath set sail for Madras. Thus as impotent and indignant spectators of Heath's inconsequent adventures, Charnock and his Council, were carried from Bengal to Fort St. George.

The interference with their trade, of which the English had so long complained, had not been designed to drive them from Bengal. On the contrary the imports especially the specie they brought to the country, were welcomed and it was understood well enough that the British commerce was productive of gains which the imperial treasury could ill afford to forego. Contemptible as might be the English power on land, the whole of the Arabian trade, and the pilgrimage ships to Mecca, were at the mercy of the English ships. Heedless of far gains, local rulers had yielded to the temptation to snatch at the immediate small profits of the moment. The golden eggs had been irresistible, and the disappearance of the goose which laid those eggs was an event which caused its former proprietors some disagreeable reflections. Aurangzib, having repented of his earlier denunciation of the "infidels", informed the Nawab at Dacca that he had been pleased to pardon the "irregularities" of the English, and that on their return "you must not create them any further trouble, but let them trade in your government as formerly".

Shaista Khan had, some time previous to Captain Heath's arrival, resigned the Government of Bengal. His successor Bahadur Khan, who had sequestered the English property at Dacca and placed the factors in prison was soon succeeded in the government by Ibrahim Khan, who had administered Behar in the days when Charnock was at Singiya. Ibrahim Khan at once wrote to Charnock at Madras urging him to return to Bengal. All the old Agent's past experience warned him against relying on merely general promises of goodwill, and he stood out for a *farman* from the Emperor to secure the protection and the privileges the English trade required. The Nawab wrote in reply that he had indeed applied to the Emperor for such a *farman*, but as it would take some time before the *farman* could be obtained, he pressed Charnock to return at once. In August of 1690, Charnock and his council and factors were again in Bengal and on Sunday, St. Bartholomew's Day, August 24th, at noon, they landed and made the famous "midday halt" at Sutanuti—an event which stands out in History as the foundation-day of the Premier City, till lately the Capital, of British India. The entry in the *Diary and Consultation Book* for August 24, 1690, records :

"This day Sankraul ordered Captain Brooke to come up with his vessel to Chutanuttee (Sutanuti) where we arrived about noon ; [Ixiv] but found the place in a deplorable condition, nothing being left for our present accommodation and the rain

falling day and night. We are forced to betake ourselves to boats which, considering the season of the year is unhealthy ; Mollick Burcoozdar and the country people at our leaving this place (in October 1688) burning and carrying away what they could. On our arrival here the Governor of Tana sent his servant with a compliment”.

In course of time Charnock received a parwana from Ibrahim Khan and the Imperial Diwan permitting the English “contentedly” to “continue their trade in the places of their former residence, at Hugley and Ballasor, etc. under the Government of this subaship ;” requiring of them the payment of an annual *peshkash* of Rs. 3,000 and forbidding any further demands. In selecting Sutanuti as the place for the chief settlement in Bengal, Job Charnock made his choice deliberately and well. Indeed, even before sending out Heath, the Company had evinced an inclination to trust to their old servant’s judgment in this matter. Garden Reach, a little to the south, had in gone by days been the great anchoring place of the stately Portuguese ships, and at Betor, on the opposite side, each year was built afresh the temporary markets in which they exposed their imports for sale. Higher up the river the great ships could only go at extreme peril. On three sides the place was secured by the river, the salt lakes, and the ancient channel of the Adiganga. Sir William Hunter is guilty of a picturesque error, when, alluding to the great mortality of the settlement in its early years, he writes it “was identified by our mariners with Golgotha, the place of skulls”<sup>24</sup> No one to-day takes Mr. Rudyard Kipling’s lines as serious history :—

*Once two hundred years ago the trader came meek and tame,  
Where his timid foot just halted there he stayed,  
Till mere trade  
Grew to Empire and he sent his armies forth,  
South and North :  
Till the country from Peshawar to Ceylon  
Was his own ;  
As the fungus sprouts chaotic from its bed,  
So it spread  
Chance directed, chance erected, laid and built  
On the silt  
Palace, byre, hovel—poverty and pride  
Side by side ;  
And above the packed and pestilential town  
Death looked down.*

24. Golgotha seems to be due to a misapprehension of the Portuguese name for Hughli *Golin*, and this name was perhaps derived from a rapid or whirl-pool in the river at that place. When Herron in his *Sailing Directions* speaks of “Gull-Gat” he is referring to the site of the English factory at Hughli. French writers having heard the English factory called Golghat transferred the name to Calcutta, and so Sonnerat (in 1782) writes *Calcutta* but adds that the English pronounce the word *Golgota* ! See *Diary of W. Hedges*, vol. iii, p., ccxix.



## CHAPTER IV.

### THE COMPANY BECOMES ZAMINDAR

In the last chapter, it has been seen how in the year 1686 the Company authorised Job Charnock, their Agent in the Bay, to capture Chittagong and hold that place as a military conquest. Had a policy of the kind been pursued, the history of the English occupation of Bengal would in all probability have been a far simpler story than it is. The new period, which commences with the foundation of Calcutta in 1690, has indeed a certain military interest, for it was during this time that old Fort William was enterprised and completed <sup>1</sup> but it was not till 1757, when Colonel Clive, robbing Admiral Watson of his precedence, marched his troops into the ruins of the Fort, that the entrenched citadel became for the first time, the symbol of a conquered territory. The English in the sequel, however, elected to hold their capital under a sanad from the Nawab, and in a true sense it may be said that the most lasting thing achieved by the Company, in the period 1690-1757, was not the building of a Fortress, but the acquisition in 1698 of the tenure, on terms of Mughal revenue law, of the three villages of Calcutta, Sutanuti and Govindpur. By this acquisition the Company obtained for the first time a legal position within the Mughal Empire, and thus brought into existence a working theory, in the development of which the acceptance of the Diwani in 1765 is the final and logical completion.

When the head-quarters of the Company in Bengal were fixed at Hughli, in close proximity to the far more imposing buildings of the Dutch, and under the eye of perhaps the most powerful of the faujdars, the English, living a collegiate life within the boundaries of their Factory walls, were not much concerned with problems of civil justice and local administration. Their legal position in respect to the Country Government was that of tolerated merchants, and infidels at that. In respect to their own Sovereign, the legal position of the English was what the Charter of the Company defined, and these definitions were subject to interpretation by a Nawab who knew nothing of international law. When, however, Charnock established himself and his subordinates at Calcutta, it was at once found that the practical occupancy of a group of towns, including colonies of wealthy Armenians and native and Eurasian Christians, and possessing a much frequented port, involved the English in new responsibilities and obligations. Twelve years

1. See C. R. Wilson : *Old Fort William in Bengal* (Indian Records series). In the year 1696 Subha Singh, a zamindar in the neighbourhood of Burdwan, revolted, and called to his aid Rahim Khan, the Afghan chief of Orissa. The whole of Western Bengal, from Rajmahal to Midnapur fell for the time into the hands of the Afghans. During this disturbance, the aged Nawab, Ibrahim Khan, gave permission in general terms to the English, Dutch and French, to fortify their factories. The result of this permission was the commencement of Fort William.

after Charnock's final [Ixvi] halt at Sutanuti, the population of the three towns was estimated at 15,000 : eight years later it had risen to 31,000. The necessity of providing some sort of local government, of finding means of defraying the ever-increasing expenses of roads, markets, river landing-places, etc., and many other urgent considerations, compelled the English to obtain at least the recognised authority that the neighbouring zamindars possessed. Until such a jurisdiction could be obtained, they were subject to be harassed every day of their lives by overbearing and fraudulent collectors of arbitrary market dues, and for the redress of their own personal grievances the Company's servants would have to rely more on the terror they could inspire than the justice they could obtain from a somnolent and supine Hindu cutcherry. The situation was such that the English could not remain content with the status of mere squatters. On the 14th of December, 1697, the Council at Calcutta wrote home :

■ "By the death of Agent Charnock,<sup>2</sup> your Honours are disappointed in your intentions and expectations of having a Court of Judicature erected in Bengal, and, for that reason we presume the Honourable President and Council of Fort St. George took the commission out of your Honour's packet before it came to us. Our endeavours have been fruitless hitherto in procuring the Nabob's and Duan's consents for a firm settlement in this place, and we have no hopes for the grant for it so long as this Duan continues. We have endeavoured to gain two or three towns adjacent to us (Chutanutti included), the rent whereof will amount to about 2,000 or 2,500 rupees yearly, which is a means to increase your Honour's revenues in your town of Chutanutti, for, although we do make some small matter out of your bazar by grain fines, etc., yet we cannot lay any impositions on the people, though never so reasonable, till such time as we can pretend a right to the place, which this farming of the towns adjacent will soon cause, and procure us the liberty of collecting such duties of the inhabitants as is consistent with our own methods and rules of Government, and this is the only means we can think of till we can procure a grant for our firm settlement."<sup>3</sup>

The Consultations of 7th March, 1698 show that, in seeking for these boons, the English met with opposition on the part of "the Jimidar (Zamindar) of the Country" :

"Having try'd all means with the Jimidar of the Country adjacent to us, to let us have the town of Decalcutta [Dihi Calcutta] at the usual hyre or rent, and rather than fail, having promised him  $\frac{1}{4}$  part more than the place at present brings him in, and all to no purpose, he making frivolous and idle objections that [Ixvii] he will not let us have any part of that country in the Right Honourable Company's name, but that we might have it to our use in any of the Natives' names. The reason he gives for it is that

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2 Job Charnock died on the 10th January, 1693. The year 1692 on the epitaph in the Mausoleum represents, of course, the Old Style. For a short time after Charnock's death, the Bengal Agency was made subordinate to Fort St. George, Bruce: *Annals of the Honourable East India Company*, 1810, vol. iii, p. 144.

3. Wilson: *Old Fort William in Bengal*, vol. 1, pp. 14-15; <sup>\*</sup>*Bengal: Past and Present*, vol. vi., p. 147 et seq.

the place will be wholly lost to him, that we are a powerful people, and that he cannot be possessed of his country again when he sees occasion, whereas he can take it from any of the natives that rent any part of his country at his pleasure, in consideration whereof, and the difficulty we find in treating with these inferior Jimidars, in which there is neither security nor credit to what there may be, if we have the country rented from the great ones.

“It is *agreed* that we apply ourselves to the Prince (and) to make what interest we can amongst his officers, for three towns, viz : Chutanutti, Decalcutta and Gobinpore, the ground of which will be to that extent required by our Right Honourable Masters.

“And the rent amount to about as much money as they have likewise allotted to us ; and, considering that we are making a present to the Prince about other affairs, we hope that there will be the less difficulty in getting a grant for the aforesaid towns ; but if there should appear any, rather than be disappointed of so great a conveniency, as those towns will prove to the Honourable Company.

“It’s *agreed* that we advance a quarter part more than the revenues bring in at present to the Jimmidar, intending to improve the same to better advantage than hitherto has been done or the Jimmidars are capable of.” <sup>4</sup>

In accordance with these resolutions the Council sent Mr. Walsh to the Durbar of the Subahdar, Princê Azim-ush-Shan (grandson of Aurangzib). <sup>5</sup> On this deputation Walsh was accompanied by the Armenian Khwaja Sarhad, who in after years accompanied John Surman on his embassy to the Court of Farukhsiyar. <sup>6</sup> The result of this deputation may be read in the Consultations of 31st October, 1698 :

“The Prince having given us the three towns adjacent to our settlement, viz. Decalcutta, Chuttanutti and Govindpore, or more properly may be said the Jimmidarship of the said towns, paying the same rent to the King as the Jimmidars successively have done ; and at the same time, ordering the Jimmidars of the said towns to make over their right and title to the English upon their paying to the Jimmidars one thousand rupees for the same ; it was agreed that the money should be paid, being the best money that was ever spent for [ *lxviii* ] so great a privilege, but the Jimmidars making a great noise being unwilling to part with their country, threatening to complain to the King of the injustice of the Prince in giving away their country which they had so long in possession, and finding them continue in their averseness, notwithstanding the Prince had an officer upon them to bring them to a compliance ;

“It is *agreed* that 1,500 rupees be paid them, provided they will relinquish their

4. Wilson : *Op. cit.*, pp. 34-35.

5. An agent of the name of John Anthony Teshmaker had been sent up to the Prince on other business, but he was drowned near Rajmahal while crossing the river during a storm.

6. On this occasion the English paved their way to the Subahdar’s favour by a *douceur* of Rs. 16,000.

titles to the same towns, and give it under their hands in writing, that they have made over the same to the Honourable Company".<sup>7</sup>

The actual "Nishaan" signed by Azim-ush-Shan has been lost,<sup>8</sup> and it is, therefore, extremely difficult to determine with precision the exact legal rights it conferred on the Company. The "Jimmidars" of the records we have quoted were the family of the Savana Mazumdars whom Dr. Wilson speaks of as the "so called Zamindars". The author (Mr. A. K. Ray) of the *Short History of Calcutta*, which formed part 1 of vol. viii of the Census Report for Calcutta of 1901, asserts that these Mazumdars had got themselves into such bad odour with the Nawab, on account of the assistance they had given to the English, that they were only too glad to sell their rights for a merely nominal sum. The documents that have been quoted do not sustain any such imputation of Anglophile sympathies to the "Jimmidars." The Three Towns in fact belonged to the Mughal Khalsa, or territories directly assumed by the Imperial exchequer and had been granted to the Subahdar of Bengal as part of his Jaghir. This being the case, it was in the power of the Subahdar to entrust the forming of the revenues to whomsoever he pleased. The Company's payment of Rs. 1,300 to the Mazumdars was, as Dr. C. R. Wilson has put it, "for the sake of peace and quiet."

By this successful negotiation the English were made responsible for the payment of lump sums representing the estimated revenue due from the inhabitants of the Three Towns.

						Rs,	As,	Ps,
Dehi Calcutta	...	...	...	...	...	468,	9,	9,
Satanuti	...	...	...	...	...	501,	15,	6,
Govindpur in Pargana Paikan	...	...	...	...	...	123,	15,	3,
.. In Kalkata	...	...	...	...	...	100,	5,	11,
						1,194,	14,	4, <sup>9</sup>

7. Wilson : *Op. cit.*, pp. 39-40.

8. The *Bai Namah*, or deed of purchase, from the Mazumdars, dated November, 9th, 1698, is preserved at the British Museum (Addit. Mss. No. 24,039). A translation by Mr. W. Irvine is given by Wilson. (*Old Fort William in Bengal*, Vol. I, pp. 40-48)

9. This is the sum according to the parwana of 'Izzat Khan, dated Sha'ban 2, in the forty-second year (British Museum Additional MSS. 24,039, No. 36.) In the Bengal Public Consultations, May 4th, 1714, the Annual rent is stated to be Rs. 1,281-6-9. C. R. Wilson remarks "the increase is in the rent of Govindpur in Paikan." Wilson : *Old Fort William in Bengal*, Vol. I, p. 4 ; *Early Annals of the English in Bengal*, Vol. ii, part I, p. 174. The English paid their revenue quota three times in the year to the Karori (the Nawab's collector) at Hughli. It appears that the lands thus occupied by the English formed part of the Nawab's Jagir. See Bengal Public Consultations, Dec. 8th, 1719. "Sookdeb Carowree (Sukdeva karori), demanding three hundred and twenty-five sicca rupees for four months' ground rent of Chuttanuttee, de Calcutta in Burgunna of Amarivad (Amirabad) in Jaffer Cawn's (Jafar Khan's) Jageer (Jagir)" etc. Wilson : *Early Annals*, Vol. iii, p. 173.

[ lxi ] To meet this annual due, the Company was privileged to collect a maximum of three rupees per bigha for land held by the inhabitants. In 1704 the average monthly balance to Company's credit amounted to Rs. 480 : in Holwell's day it amounted to about Rs. 3,800 : but Holwell's figures take into account more land than was included in the Company's legitimate holding. Holwell tells us that in the year 1732 the Governor and Council "had in agitation the raising the rents of your own Zemindary of Calcutta, which, being rumoured abroad, they received a peremptory perwannah from the Soubah, forbidding them ; in which the Soubah told them that they were presuming to do a thing which he had not power to do ; and that if they persisted, they would, by the laws of the Empire, forfeit their lands".<sup>10</sup>

In consideration of the responsibility of paying in lump sums as the land revenue of the district, the English by their transaction with Azim-ush-Shan, obtained these three rights :

1. To collect the rents from the ryots.
2. To deal at pleasure with waste lands.
3. To impose petty taxes, duties and fines.

Whether the English had become zamindars or talukdars is a technical question of some interest, but of no great historical importance, for the Company at once regarded itself as zamindar and exercised the functions of that office. In order to contend with their increased responsibilities, the Company appointed an additional member of Council, and gave to him the title of "zamindar" or collector. From Ralph Sheldon, appointed Collector in the year 1700, through Holwell, who was Collector in the year of the Black Hole tragedy, to the present day, the succession of Collectors of Calcutta is unbroken.

In accordance with zamindari customs, the English zamindar of the Three Towns acted as a magistrate of police, and held courts in which petty offences and cases of revenue disputes were decided. It has been seen that Warren Hastings in 1775 disputed the accuracy of the account of the zamindar's position in the administration of justice given in the *Sixth Report of the (Parliamentary) Committee of Secrecy* in 1773 : the Committee, however, correctly represents the Company's earliest conception of the zamindar's duties. This may be best brought out by placing in parallel columns relevant passages from the *Report* and Bolts' description of the Calcutta cutcherries.

### [ lxx-lxxii ]

#### Report, 1773.

(1) "The Criminal Court, in every district, was generally known by the name of the Phousdary ; the zemindar or Raja of the district, was the judge in this court : his

10. J. Z. Holwell : *Interesting Historical Events relative to the Provinces of Bengal and the Empire of Indostan, with a seasonable Hint and Persuasion to the Honourable the Court of Directors of the East India Company*. 2nd edition, London, 1766, part I, p. 222.

jurisdiction extended to all criminal cases, but . . . . . in such as were of a capital nature, the sentence was not executed until a report of the case was made to the Government at Murshedabad, and orders received upon it. The proceedings in this Court were summary, the most frequent mode of punishment, particularly where the man accused was a man of wealth, was by fine, and every fine imposed by the authority of the Court, was a perquisite of the Zemindar himself, by virtue of the tenure of his lands ; the natural effects of this circumstance upon the fine administration of criminal justice appear to your Committee to have been severely felt.” (page 2).

(2) “In every district it (the Civil Cutcherry) was generally known by the name of the Adawlut ; the Zemindar or Raja of the province was judge also of this Court ; its judicature extended to all causes between party and party ; the judge, as a perquisite of his office, was entitled to a chait, or share, of whatever was recovered in his court, which, as your Committee have been informed, amounted to  $\frac{1}{4}$ th or  $\frac{1}{5}$ th of whole value . . . . . The parties were very reluctant to resort to this tribunal . . . hence it has long been a prevailing practice in Bengal to refer matters of controversy to arbitrators chosen by the parties”.

### **Bolts' Considerations, &c.**

(1) “The other Court is called the zemindarry, or Fowjdary, court, in which, according to late practice, presides a member of the Board of Council, or sometimes a servant under Council, alone ; his business is to enquire into complaints of a criminal nature among the black inhabitants, and in cases where natives do not apply to the English established Court of Justice . . . . . He proceeds also in the above summary way, to sentence and punish, by fine, imprisonment, condemnation to work in chains upon the roads, for any space of time, even for life ; and by flagellation, in capital cases, even to death. The ancient Moguls and Nabobs would not permit of the professors of Islam to be hanged, according to the English custom, esteeming that too ignominious a death for a Mahomedan to suffer ; therefore in such cases as were deemed capital, only the lash was permitted to be inflicted until death on the Mogul's subject, Mahomedans and Gentoos ; but the officers of the Court called Chawbuckswars, or lashbearers, are sometimes so dexterous as to be able to kill a man with two or three strokes of the Indian Chawbuck. In cases which, according to the usage of this Court or office, are deemed worthy of death, it has been usual for the Zemindar first to obtain the approbation of the President and Council, before the fatal stroke be given”.<sup>11</sup>

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11. *Considerations on Indian Affairs, particularly respecting the Present State of Bengal and its Dependencies, etc.*, by William Bolts, Merchant & Alderman, or Judge of the Mayor's Court of Calcutta. 2nd edition, with additions (3 volume edition). London 1771. Vol. I, p. 81. In connection with the passage about flagellation, it must be remembered that Bolts' work is an attack by an exceedingly biased person on the E. I. Company. The English reader in reading of matters of this kind in Anglo-Indian records must bear in mind the fiercely savage character of the criminal laws in England at this time. Gentoos is the name commonly applied in Old English books on Bengal, to the Hindus. In 1754,

(2) The Court of Cutcherry "which on its present establishment, is composed of the Company's servants under Council, any three of whom, their President being one, upon days stated at their own option, meet for the hearing and trying and determining, in a summary way, all matters of *meum et tuum* to any amount, wherein only the native inhabitants of Calcutta are concerned. The Mode of proceeding is indeed as summary as possible. The plaintiff and defendant, with their respective witnesses being summoned, the Court hears what they have to offer or prove, *viva voce*, and immediately proceed to decree in such matters as do not admit of much contest. From the decisions of the Court the Company have directed appeals to lie finally to the Governor and Council; which, however, is seldom done except in matters of the greatest consequence, as in these cases the general practice of the Court, when not unduly interrupted is to have every cause determined by arbitrators or umpires, chosen by the parties, or with their consent, whose decision is final, and made a decree of the Court".

(3) "Besides the above-mentioned, there is another cutcherry, called the Collector's cutcherry, which has been established in Calcutta ever since the Company had anything to do with the collection of the ground rents".<sup>12</sup>

[ lxxii ] The account of the Court of Cutcherry given by Bolts closely corresponds with a passage in one of Holwell's letters printed in his *India Tracts*. Holwell adds :—

"Such was the power annexed to this office (i. e. the office of the Collector or Zamindar), when this gentleman [Holwell] was appointed the head of it, and such had it been for a long term of years preceding that period; a power much too great for *one man* to be intrusted with. Therefore, in the year 1758, at the recommendation of Mr. Holwell, a stop was put to it by the Court of Directors, who appointed three Judges of this court, members of the Board, in monthly rotation. Before this gentleman took charge of this important post, there never had been any register of causes or decrees kept in English, but from that time,<sup>13</sup> a register of the proceedings was monthly laid before the Board at Calcutta for their inspection, and annually transmitted to the Court of Directors".

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eleven lascars were tried by a Court of Admiralty at Calcutta for the murder of their English Captain. Of these two who were Christians were condemned and executed; the others being Mahomedans were also condemned, but, as the Council dreaded a disturbance with the Nawab, the convicted Mahomedans were kept in prison "to be producable at any time, if sickness do not take them out of the world." See Long: *Selections from the Unpublished Records of Government, 1748-1767*, No. 134.

12. Bolts: *Op. cit.*, p. 80. There was also a Caste Cutcherry presided over by a Hindu appointed by the Governor. Verelst: *View, etc.*, p. 27.

13. Holwell was appointed Collector by the Directors in January 1752. He had left India in 1748, and "had no intention of ever seeing India again; but, finding (as do) many others who return from India with small fortunes that money does not go far in England, as he fondly imagined, he thought it necessary to return and increase his capital, then lying at interest only, in your (the Company's) cash at Fort William." He assumed the office of Collector in July, 1752. Holwell: *Op. cit.*, pp. 120-21. He had originally gone to Bengal as a surgeon's mate on an East Indiaman.

Holwell's account of the Collector's functions would appear to indicate that the Criminal and Civil Courts belonged in 1758 to one and the same Cutcherry.<sup>14</sup>

For purposes of administration, the Three Towns were divided into four divisions :—

1. The Great Bazar.
2. Town Calcutta.
3. Sutanuti ("Sutta Loota".)
4. Govindpur.

[xxiii] Under the Collector or Zamindar there was a native official known as "the black collector"—a person accustomed by immemorial practice to supplement his inadequate salary by what he, following native traditions, considered as the perquisites of his office, emoluments which, on scrutiny, would be regarded by his employers as embezzlements. Holwell commenced his labours by an attempt to bring Govindram Mittre, the then "black-collector" to account.

In a later chapter it will be necessary to deal with the subject of the administration of justice under charters granted by the British Crown. The judicatures we are at present concerned with are based on the Company's position as Zamindar of the Three Towns. The jurisdiction of the Courts established at a later date by the charters of the Sovereign of Great Britain extended over the subjects of the British Crown, their dependents, and those who by voluntary submission subjected themselves to that jurisdiction. The Court of Cutcherry, on the other hand, was a judicature which, at least in the ideas of the English, derived its authority from the Mughal Empire, and it was a jurisdiction to which the Mughal's natural subjects, as such, were subject. It was in 1704 perhaps that the Court of Cutcherry was organised, for the Consultations of Council on 18th August of that year show :

"It is ordered that Mr. Robert Nightingale, Mr. George Redshaw, and Mr. Benjamin Bowcher<sup>15</sup> do meet in some convenient place between the hours of nine and twelve in the morning, every Saturday to hear and determine small controversies, but if anything difficult and of moment happens it is to be heard in full council"

14. "The Zemindar acts in a double capacity, distinct and independent of each other (with very few exceptions) the one as superintendent and collector of your revenues, the other as judge of the court of Cutcherry, a tribunal constituted for the hearing, trying and determining all matters and things, both civil and criminal, wherein the natives only, subjects of the Mogal, are concerned. He tried in a summary way, had the power of the lash, fine, and imprisonment : he determined all matters of meum and tuum ; and in all criminal cases proceeded to sentence and punishment immediately after hearing, except where the crime (or murder) requires the lash to be inflicted until death, in which case he suspends execution of the sentence until the facts and evidence are laid before the President, and his confirmation of the sentence is obtained. He has also the power to condemn thieves, and other culprits, to work in chains upon the roads, during any determinate space of time, or for life. In all cases of property, an appeal lay to the President and Council against his decree." *India Tracts by Mr. Holwell and Friends*, 2nd edition, London, 1764, p. 120.

15. Bowcher was collector from 1st February, 1704, to his death on 24th September, 1705.



Two years later, 29th August, 1706, it is recorded :

"A few days ago, there were taken several robbers and thieves ; the former have taken and murdered several people, it is agreed what persons we have in custody and what may be taken, that the Gentlemen belonging to the Court do burn such persons on the cheek, and turn them on the other side of the water".

The Council seems to have hesitated in exercising the zamindar's authority in levying taxes to defray public expenditure. In the year 1727, the Council were at a difficulty to provide the funds for the purchase of a building for the Mayor's Court, and a new Jail.

In January they decided that a tax be levied on the inhabitants, but they flinched from putting their resolution into execution, and, as the inhabitants considered it "a hardship to bear the whole burthen and the Company bear no share", in 1731 they wrote home stating that the assessment had not been made. In January, 1733, they say "the assessment of the black inhabitants had made them uneasy". If this assessment was ever made, the onus was probably cast on the shoulders of the Justices of the Mayor's Court.<sup>16</sup>

[ lxxiv ] In January of 1714 the hearts of the English Government at Calcutta had been enlivened by the receipt of an imperial order (Hasb-ul-hukum) addressed to the Nawab ordering him "to permit the English to trade as formerly in Aurengzeb's time and not to molest them". Political expediency dictated the necessity of a public demonstration of joy.<sup>17</sup> To follow up the advantage as speedily as possible, the Council

16. In 1748 an attempt was made, but ineffectually, to impose a cess for providing a wharf to the road leading to Sutanuti bazar. See Long : *Selections*, Nos. 27 & 31. In 1755 the European inhabitants defeated an attempt of the Collector to impose a duty of 5 per cent on the sale of houses. *Ibid.*, No. 163. In their General Letter of 2nd February, 1769, the President and Council wrote : "Previous to our coming to a final determination on the method of making and repairing the roads and the appointment of a Surveyor for the management of that business, we thought it necessary to have the opinion of the most able lawyers in the place on three points : Whether and how far we, as President and Council or as a bench of Justices, had a right to cesses or levy any scavengers' rates from the European inhabitants for the purpose of defraying the expenses of making and repairing the roads and drains within the town, and any other expense that might be incurred in regulating the police of the place. Mr. Holmes, the Registrar, was accordingly consulted, and gave it as his opinion that we had a right as Justices of the Peace, to make an assessment not exceeding sixpence in the pound."

17. "The Husbull Hookum arriving last night under the Grand Vizier's seal ordering the Duan Jaffer Cawne (Murshid Quli Khan) not to molest us but to let our trade pass with the same freedom and privilege we enjoyed in the days of our predecessors it became necessary to make a public show of rejoicing for that favour from the King which was done in the following manner. After three volleys of small shot from all our soldiers we began the healths of our Queen and of King Furruckseer firing 51 great guns to each health after which we drank prosperity to the Honble. Compy. with 31 guns and success to their trade with 21 guns more and all the ships in the road fired at every health, after this at night we order'd a large bonfire to be made and gave our soldiers a tub of punch to cheer their hearts, we also ordered our merchants to write to their correspondents everywhere of this Husbull Hookum and how greatly we honour and esteem the King's gracious favour and what rejoycings we made at it." *Diary and Consultation Book*, Jan. 4, 1713/14. Wilson : *Op. cit.*, Vol. ii, pt. I, p. 153.

determined to carry into execution a plan of sending an embassy to Delhi—a plan which Thomas Pitt, Governor of Madras, had conceived nearly six years before, but which, owing to the disturbed state of the country, had been taken up and allowed to drop. After much discussion and several revisions of the appointments, the personnel of the embassy was fixed. The chief was John Surman, a young man<sup>18</sup> of remarkable abilities. A wily Armenian, Khwaja Sarhad went as second, Edward Stephenson<sup>19</sup> as third, and Robert Barker,<sup>20</sup> as Secretary. Surgeon William Hamilton accompanied the embassy as doctor, and in fact the success the diplomatists reaped was very largely due to Hamilton's medical skill in dealing with the Emperor's disease.

The story of the Embassy stands revealed in *Surman Diary*, the publication of which, with elaborate notes and a valuable introduction, necessitates a revision of some of the most striking details in the accounts of the Embassy that have come to us by tradition. The *Diary*, as Mr. Irvine has pointed out, gives "an almost photographic picture of an oriental Court, seething as usual with intrigue and a mere battle ground of personal ambitions." Khwaja Sarhad loses his title to the fond memory established for him by long tradition in Calcutta, and Mr. Irvine is only faithful to the contents of the *Diary* when he writes: "Sarhad, the shifty Armenian, if left to himself, might have succeeded by his own devious ways: on the other hand, Surman would have certainly done better if unhampered by Sarhad as a companion". The importance of Hamilton's [ lxxv ] services,<sup>21</sup> which James Mill in a footnote brings into question, is established. The Wazir, whom Mill represents as a mere obstructionist, appears to have been at first unduly neglected by Surman,<sup>22</sup> but, when at last approached, to have acted with both reason and vigour.

The Embassy did not leave Patna until April, 1715. They carried with them instructions from Madras and Bombay as to the privileges desired by those presidencies; the privileges sought for Bengal were as follows:

"That you may know what to ask for, 'tis necessary you be well inform'd of what our privileges are and on what terms we enjoy them.

18. Probably about 25 years old. 19. Born 1691, Oct. 8, and therefore at this time aged 23.

20. Probably about 21 years old.

21. For the materials for Surgeon Hamilton's personal history see Wilson: *Op. cit.*

22. Holwell supplies another instance of Surman's want of judgment: "When Mr. Surman . . . was on his return to Fort William, he pitched his tents in the neighbourhood of Moorshidabad, and having acquired from the Emperor a title and rank in the list of burrahs, some thing superior to that which Jaffier Khan (then Soubah of Bengal) bore, Mr. Surman expected the first visit. Jaffier Khan allowed Mr. Surman's superior title, but considering himself in rank the third Suba of the empire, and Viceroy of Bengal confirmed from the Court, thought the dignity of his post demanded the first visit from Mr. Surman; frequent messengers passed between them, touching this ceremonial, for the space of three days, but, neither stooping, Mr. Surman struck his tents and returned to Calcutta. Thus an injudicious punctilio in Mr. Surman destroyed all future cordiality with a man on whom (from the nature and power of his post) so much depended, for the due execution of those phirmaunds granted by Farrucseer." *India Tracts*, p. 279.

"Instead off Custom we pay a yearly peeshcash (peshkash) off three thousand sicca rupees into the King's treasury att Hughly, and we pay no other custom or duty on any goods or merchandize which we import or export, nor on treasure coined for us at ye King's mint which was at Rajamoll (Rajmahal) butt is now removed to Muxadavad (Murshidabad).

"Our goods or treasure which we send to our settlements or any off the Aurungs (aurangs) inland, pass on our own dustick (*dastak*) without examination and back to us in ye same manner.

"Our Merchants, Factors or Agents, whom we employ at the Aurungs or elsewhere are not to be molested or called to account by small officers upon ffirvilous pretences, whilst they continue in our service and are employed for us.

"Iff our Factors or Merchants endeavour to defraud us the remedy is in our own hands, we take them up and use such meanes as are proper and necessary to make them pay us what they justly owe us.

"Convenient places and parcells of ground were granted us to build and settle factorys on, att, or near severall inland places off note as Hughly, Cossimbuzar, Patna, Dacca, Maulda, Rajamoll, Balasore, Radnagur, etc. which we still keep possession off, and may settle factorys again att, after the King is pleased to confirm all to us in his Royal Phirmaund (*farman*).

"We hold and enjoy three towns namely,—De (*dihi*) Calcutta, Sootaloota (Sutanuti) and Govindpore (Govindpur,) paying ye [ ~~lxxvi~~ ] same yearly rent for them into the King's treasury, which the Jemidars (zamindars) paid before they were granted to the English Company. The Grant was made at Burdwan (anno 1698) in a Nishaun (*nishan*) from Sultan Mahumud Azzeem (Muhammad Azim-ush-Shan), ffather off his present Majesty king Furruckseer (Farrukhsiyar) whom God preserve. What we desire more for Bengal is that we may have ye use off the King's mint custom ffree att Muxodavad (Maqsudabad) and Dacca as we had itt att Rajamoll (Rajmahal) and the same ffree use off ye mint att Patna also iff itt may be obtained. We also desire our bounds round us att this place may be enlarged. The additions we desire will amount to eight thousand sicca rupees yearly rent and something more, which, added to near thirteen hundred Sicca Rupees which we pay yearly rent for the three towns, will make about nine thousand four hundred Sicca Rupees per annum: which we desire we may be appointed to pay in one summ yearly into the King's treasury att some certain place, and that we may not be called upon for itt before ye day of payment by any Suba Diwan (diawani-subah) or Collectors off revenues whatsoever.

"That you may, perfectly understand what additions we desire may be made to our present bounds, and be well undertsood when you petition for them, we herewith send you a list off the towns we now possess and off those we desire may be added to us, with ye rent paid ye for same by ye Jemidars (zamindars) into ye King's treasury, and we have hopes they will be granted to us, because we shall be punctual in paying our rent on ye day, and att the place appointed, which Jemidars are not always.

"It would be a good advantage to the Company's affairs iff the King may be prevailed with to order that the Rupees coined att Madrass may pass in payments off his revenues in Bengall. Endeavour att getting such an order, which we hope may be granted, because Madrass Rupees have ye King's stamp as well as Bengall Rupees and are full as valuable. For they are off equal weight and fineness with them and will always be made so."

Not before February 1st did the Embassy receive the desired *farman*, the delay being to a great extent due to their unwisdom in ignoring the Wazir, the officer through whom their petition should have properly been submitted. Farrukhsiyar granted the English their freedom of trade in return for the yearly *peskhash* of three thousand Rupees, confirmed the purchase of the Zamindari rights in the Three Towns, and sanctioned the purchase of similar rights in the thirty-eight towns mentioned in the petition, exempted Madras Rupees from discount, granted forty bighas of land "in any place they may have a mind to settle factories" and forbade the Governors of sea-ports seizing the cargo of wrecked ships or demanding a "quarter part salvage". The *farman* is silent as to the free use of the mint at Murshidabad.

[lxxvii] On November 16th, 1717, the Governor and Council proceeded in state to Tribeni above Hughli to receive the *farman*, and the usual rejoicings ensued. Already Murshid Kuli Khan<sup>23</sup> had ceded the point about the customs, but the Imperial *farman* had not the slightest effect in altering his determination about the use of the Mint. In vain Samuel Feake, the Chief of the Cossimbazar Factory pleaded with him. Having read the Imperial rescripts, the Nawab "positively said we shall not have the use of the mint nor liberty to purchase more towns, though both are granted to us by the King." And here, so far as Bengal was concerned, the affair of Surman's Embassy ended. Had the English been able to purchase the towns, their zamindari would have extended from the boundaries of the Dutch factory or Barnagore in the north to Kalpi in the south, and have included on the river bank opposite to Calcutta the villages of Salkea, Howrah (Haurah), Kasundiyah, Ramkrishnapur, and Betor. But beneath Murshid Kuli Khan's scowling countenance, what native would dare to sell his zamindari rights?

In a narrative history of the English in India the story of Surman's Embassy to the Mughal Court would by right of importance occupy a prominent place;<sup>24</sup> in a study of the

23. Mr Irvine writes (*Journal of the Royal Asiatic Society*, 1897, pp. 181-82:—"Murshid Kuli Khan, the *diwan* of Bengal, was removed on Bahadur Shah's accession in 1119 H. (1707) and joined that Monarch's Camp on his march to the Dakhin. Murshid Kuli Khan was not reappointed to Bengal until the 2nd Muharram, 1122 H. (March 2, 1710), after the assassination of Zia-ullah-Khan."

24. Mill: *History of British India*, Vol. iii. p. 23 (edn., 1857). C. R. Wilson attributes the failure of the English at once to benefit by the privileges granted by Farrukhsiyar to other causes besides that of Murshid Kuli Khan's intransigence; viz., complications arising from out of the struggles first with the Ostenders and afterwards with the Marathas, and by the natural unwillingness of the Company's servants to quarrel with the local government to the detriment of their own private business." Wilson, *Op. cit.*, vol. ii, pt. ii, p. lviii.

English occupation of Bengal this story is of no great importance. Elsewhere the privileges secured by this negotiation produced their full effect, but in Bengal the Nawab was strong enough to prevent the Company realising the principal objects for which the Imperial *farman* had been obtained with so much toil and patience. So far as Bengal is concerned, the most that can be said of the results obtained is what has been said by the late Dr. C. R. Wilson, in his Introduction to the *Diary of Messrs. Surman and Stephenson*:<sup>25</sup>

“In Bengal it placed the local government (the Nawab’s) technically in the wrong so long as the *farman* and the orders of the Emperor were disregarded, and it consequently furnished the English with a standing quarrel which they might take up any time. This they at last did after the catastrophe of the Black Hole, and the with holding of the rights won by Surman were put forward by Lord Clive, when he broke with Sirajud-daulah and entered upon the conquest of the country. The soldier completed, and more than completed, what the ambassador began”.

The labour of the Surman Embassy thus, so far as Calcutta was concerned, proved nugatory; but in 1754 an energetic Collector of the [ lxxviii ] Three Towns was successful in obtaining from the local zamindars the possession of an adjacent district. On December the 8th the President and Council wrote home:

“On the 8th August, Mr. Holwell, in a letter to the Board, informed us he had been at some pains to prevail upon the Proprietors of a spot of ground called Similia to rent it to your Honors for the sum of Rs. 2,281, which he required our permission to take on your account as the situation (being a part of Calcutta in a manner itself) had many advantages and its revenues yielded in its present management more than the sum we should pay, and he did not doubt would produce considerably more when in our hands. We have accordingly given him leave to take possession. But as there are since contested claims to the ground, we have not as yet been able to settle it, but, when we do, we shall duly advise your Honors”.<sup>26</sup>

Research may perhaps reveal the nature of the terms on which the Company held the lands occupied by the subordinate factories, but at present that subject remains in obscurity. At the time of Siraj-ud-daula’s outbreak in 1756, the Company had factors settled at Balasore,<sup>27</sup> Cossimbazar, Dacca, Jagdea, and Luckypore the business at each

25. This *Diary* forms part ii of the second volume of the late C. R. Wilson’s *Early Annals of the English in Bengal*. Dr. Wilson died in London on July 24, 1904, and the 2nd part of Vol ii of the *Annals* was published in 1911, edited by William Irvine (died 1911) to whose memory a splendid edition of Manucci’s *Storia do Mogor* forms the finest monument.

26. Long *Selections*, No. 139. See also Long’s footnote, *ibid*, p. 53.

27. In 1718 English factories were open at Balasore, Cossimbazar, and Patna. The Factory at Patna had been reopened in that year. Bengal Public Proceedings, October 8, 1718: “The 2d. received a letter from Mr. Samuel Browne, Chiefe, and Mr. Hugh Barker at Patna dated the 20th ulto, advising us of their having taken possession of the ground granted to the Honble. Company by the King’s Royall Phirmaund.” Parwanas from Khan Zaman, Subahadar of Behar, and Abdul Qadir Khan, *Diwan*, are recited in the Proceedings of July 2nd, 1718. These documents give *permi-*

of these places being conducted by a Chief and Council subordinate to the President (or Governor) and Council at Fort William.

In 1756 Calcutta was besieged and captured by the Nawab Siraj-ud-daula. In 1757 the town was re-captured by force of arms by Admiral Watson and Lord Clive; but the English elected to hold their capital on other terms than those of military right. At the beginning of December, 1758, Mir Jafar granted the Company a sanad,<sup>28</sup> for the free tenure of the town of Calcutta. The sanad directs that "the rents of the aforesaid mouzas, etc. which adjoin to the factory of the most noble of merchants, the English Company, amounting to 8,836 rupees, and something more, from the 1st of Rabbial Sauni, 5th Sun (beginning of December, 1758) are forgiven, to the end that they provide for the defence of their factory, and the safeguard of the seaports therein".

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ssion to the English to "resettle" their factory at Patna "according to former custom." The land at Luckypore was held on talukdari tenure.

28. The *fard-i-sawal*, or petition endorsed on the sanad, runs thus :—"The noblest of merchants, the English Company, represent that the factory for carrying on their trade in the pergunnahs of Calcutta, lying near the sea, and being liable to continual alarms and interruptions from the enemy, for their defence, they have made a tank of water round their factory, and left an esplanade on all sides at the distance of a cannon-shot, and that the mowza of Govindpoor, etc., in the districts of the pergunnahs of Calcutta etc., of the Sircar Sautgaum, belonging to the Paradise of the Nations, the Subah of Bengala dependent on the Khalsa Shereefa and Jaghire of the Sircar, adjoin thereto; they request that a sunnud exempting them from the payment of the rents thereof, be granted them." Verelst : *View. etc.*, Appendix pp. 153-55.

## CHAPTER V.

### THE MAYOR'S COURT

[ lxxix ] In 1693, when the Company in London were devising large schemes for their young settlement at Calcutta, they proposed the establishment of a Court of Judicature which would take cognisance of disputes between British subjects residing at that place. On April 10th, 1693, they wrote :

“24. We send you with this a short extract of two or three Paragraphs out of our Generall Letter to Bombay and Suratt, by which you will see that we have taken as much care as we can to prevent the irregularities of such as sail upon our Country permissive ships from Suratt, &c. And now it will be your part to erect such a Judicature in Bengall after the manner you have seen practised at Fort St. George to judge and punish by fines to the Company and otherwise such as shall offend hereafter, wherein we doubt not, but you will proceed with exact justice and great moderation, which is always to be used to the first offenders, besides if you find any refractory you may reduce them to obedience by denying them the priviledge of our passes and dusticks [dastaks] &c’’. <sup>1</sup>

To this the President and Conncil at Calcutta replied on December 14th, 1694 <sup>2</sup> :

“By the death of Agent Charnock your Honours are disappointed in your Intentions and Expectation of having a Court of Judicature erected in Bengall and for that reason we presume the Hon’ble President and Councill of Fort St. George took the Commission out of your Honours Packett before it came to us, our Endeavours have been fruitless hitherto in procuring the Nabobs and Duans consents for a firm settlement in this place and we have no hopes of a grant for it so long as this Duan continues”.

With this view the Directors concurred, for on May 14th, 1696, they write :

“Till the Company be settled by Act of Parliament, we think it not very materiall to resettle a Judicature in Bengall, since you may send to the Fort, <sup>3</sup> or send thither for a warrant or bring up any refractory or disorderly persons”.

[ lxx ] In 1726, however, the Company again moved in the matter of establishing Courts at their leading Indian settlements. <sup>4</sup> The letter of the Court of Directors, dated 17th February, 1726/27, to the President and Council at Fort William is so full of many points of interest that it is well worth quoting at length :

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1. *Court's Letter Book*, Vol. ix p. 257. The Surat letter referred to above is dated 1 May, 1693, and the paragraphs mentioned are Nos. 2 and 3.

2. *Bengal Original Consultations* (India Office Records), vol. I, No. 5949.

3. Fort St. George, Madras.

4. The petition for the charters is printed in my Article “Some Records Relative to the Mayors Court.” *Bengal : Past and Present*, Vol. viii, pp. 809. India Office Records Department. Correspondence Memoranda. Vol. 9.

*To Our President and Council of Fort William in Bengal.*

1. Upon Application made to His Majesty, We have obtain'd His Majestys Royal Charter for our settlements at Madraspatam, at Calcutta at Fort William in Bengall, and at Bombay in the East Indies to enable Us by Vertue thereof to have our Affairs in all those Places and with the Districts therein mention'd, as also in all the Subordinate Factoryes of those Presidencys managed with greater Authority than ever hitherto, We apply'd to get the Management of the Civil Affairs as near as We could agreeable to the Practice and Methods of the Mayors Court at Fort St. George, which have continued for many years, and as you will see in the said Charter (of which we send you by the Bridgwater an Exemplification under the great Seal of this Kingdom) It begins and goes through first with all the Powers and Authoritys granted and Rules prescribed for that Place, And then proceeds to erect the like Courts and give the same Rules for our Settlements at Bombay and Fort William.

2. The said Charter appoints an Annual Sheriff to be chosen to be the last of your Council, and to return all the Processes of the Court (And nominates nine Persons to be the Court of Mayor and Aldermen, and as such a Court to Try all Civil Causes that may happen) To bring into Court all Persons complain'd of To hold them Bail or Confine them, and on being empower'd by Warrants to Seiz and Sell the Effects to make satisfaction to the several Persons, who by Decree of the Court on hearing the Cause have any Summs of money adjudged to be due to them, And in this the said Court have by the Charter a Power to frame Rules of Practice in the Proceedings.

3. There is a liberty reserv'd in said Charter to appeal from the judgment of the Mayors Court to the President and Council, who are by this Charter made a Court of Record to receive it, and rehear the Cause, And if either Party think him, her or themselves then aggriev'd, they have liberty (in case the Sentence is for one Thousand Pagodas or upwards in Value) to appeal from the President and Council to the king in Council here under certain Conditions therein contain'd".

4. [ lxxxix ] This Charter gives the President and five of the Senior Council a Power to be and Act as Justices of the Peace and Commissioners of Oyer and Terminer and Gaol Delivery, To hold Quarter Sessions, and to proceed to hear, try and punish, in all Criminal Causes, except only of High Treason, as Commissioners of Oyer and Terminer and Gaol Delivery do in England appointing and Summoning Grand and Petty Jurys for those purposes.

5. We hope this Power will have that good Effect as to prevent all Persons from being guilty of wicked practices to subject them to the judgment of said Court.

6. Likewise a Power is granted by said Charter to appoint Generals by Land and Sea and Military Officers, and to Levy and Train Souldiers and resist Enemys, And further to Act as is therein directed, And therewith is granted an additional Authority to grant Probats of Wills and Letters of Administration on the Goods and Credits of Intestates, or of those whose Executors are not on the Place as by the said Charter is fully directed.



7. You must from the time the Charter is to operate, which is to be within thirty days after receipt hereof, take particular care to swear into the Office of Mayor and Aldermen the Persons appointed thereto, and in case of Death or total absence others as directed, The appointments of the several Persons for Administring the Oaths of fidelity and those who are to take the said Oaths and Oaths of Office are so plainly directed in the Charter that there can be no mistake when once you have but read it over attentively.

8. We had elected a very ingenious and able Person to go along with the Charter to Fort St. George and assist there, and afterwards at Bengall and Bombay in the first setting out to put every thing in a right Method and Trace out the way at first with the Utmost exactness, And had agreed upon giving him a very encouraging Gratification for his pains and the time he must necessarily spend in all three Places, But some unhappy Accidents with a great Indisposition that hath lately seiz'd him has prevented his undertaking the Voyage and consequently the Employment.

9. However that you might not be at a loss or doubtful in any part of your proceedings, We herewith send you two written Books One by the Bridgwater and the other by the Walpole, Entitled Instructions for putting in Execution the East India Companys Charter, First as to the form and Method of proceedings in all Civil Suits, Actions and Pleas between Party and Party, Secondly as to the Method and form of Proceedings before Justices of the Peace and at a Court of Oyer and Terminer and Goal Delivery, Thirdly as to the manner and form of Granting Probats of Wills and Letters of [lxxxii] Administration of Intestates Estates, To which is subjoin'd the form of some Oaths necessary to be taken in pursuance of the Charter, and which are not taken Notice of in the Instructions.

10. You will in said Book observe an instance in a Civil Case of prosecuting for a Debt, and a Supposition of all the Accidents that may happen in the whole of the Proceedings, many more than are likely, and if you find them attempted may with prudence be easily check'd so far as found dilatory and purely litigious, Also Instances of all the several Steps that can probably be taken before the Justices of the Peace and at Courts of Oyer and Terminer and Gaol Delivery with variety of forms of Warrants and other Orders, many more than in probability you will ever have occasion for, And the same as to the manner and form of Granting Probats of Wills and of Administrations, wherein the Civilians have taken in as We are told all that can well be said on that Subject, and more than ever you shall want to consult in the Cases that may come before you.

11. We likewise send you along with the said Instructions Two written Copys of the said Charter bound in a Book, one of each for the Common use of the President and Council in Council, and the others for the Mayor and Aldermen at their Court.

12. It will require your utmost care in every step you take for putting in execution the Powers and Authoritys therein and thereby given and granted, which when read over attentively and duly consider'd together with the Instructions before mention'd will be soon render'd easy and familiar, and then with common prudence will doubtless be continued so.

13. If you apply heartily as We earnestly recommend to you to endeavour you will bring the Mayors Court though new with you at present into use and good liking of all the People for doubtless there doth arise among you at times some disputes in the matters of Meum and Tuum, and if you do exercise the other Powers with prudence and Justice (and We must tell You it is greatly incumbent on you so to do, for the very Intimations of Kings are commands and if not obey'd or their Grants not thankfully accepted and made use of as they ought may bring You as well as Us into a Premunire) We cant at present apprehend We have any thing more that We shall want of the Government as to our Settlements in India for the better Government of them, And the Authority We shall now act by being supported by one so much greater than Our own, Will redound greatly to the Honour of the Nation, and part thereof will cast a Lustre on yourselves as the Instruments of putting it into operation.

14. As the Charter directs a Sherriff to be annually elected, so it directs other Officers to be chosen as well in the Court of [ ~~lxxxiii~~ ] Mayor and Aldermen as in that of Oyer and Terminer, but as you have a great many Covenant Servants, We hope they may serve the purposes of both without appointing any other English People into them, or any of them, We would have those most fit at present, or such as are most likely to be so by time and practice to be first put in, wherein one Person may possibly fill up two or more Stations, and though the business they are likely to be employ'd in will be but very little and seldom, Yet as they may think it very hard to officiate without some reward for their labour, Therefore We hereby direct You to appoint proper Fees according to their different Employments, But be sure to take care that they be very moderate and Suited to the Circumstances of the People, who are many of them very poor and can't bear the paying of such as We may here Account but small Fees, whereto We desire you will have a great regard, and send Us a Table of the respective Fees in all Cases for our Inspection and Judgment.

15. Be you particularly careful on your part and let the Mayor and Aldermen know That We also earnestly recommend to them to check the first beginnings of any oppressions, exactions Misbehaviour towards any or the least foul practice of the Attorneys and other Officers of the Court, Keep them all within due bounds of Decorum, and Discountenance all Attempts of prolonging of Suits, In the Instructions are certain distances of times between one part of the Processes and what next is to follow, Let the Court curtail them as much as equitable may be, for Justice may be render'd Sour by delaying, The most expeditious it can be made in reason is thereby the better.

16. We hope you will never have occasion to put in Execution the Powers given you for exercising of Martial Law in time of War and open Hostility, as occasion may be and necessarily require and can legally be done, Therefore you should be very careful in your Proceedings.

17. By the Charter Three of the Mayors Court, the Mayor or Senior Aldermen being One, may Try all Civil Causes, Yet We recommend to that Court to have always as many of their Members there in all Judgments to be given by them as possible, not only



In August, 1748, Madras was restored by the French to the English Company. The Company were advised by the Solicitor-General and their own Standing-Counsel, that the capture of Madras by the French had terminated the powers and authorities granted by the Charter of 1723. As a new Charter was thus rendered necessary for Madras, the [1748] Directors thought that they might make use of this occasion, and, while surrendering the charters for Bengal and Bombay, to obtain charters embodying various improvements of which experience had proved the need. The principal addition made was the establishment of Commissioners to serve as a Court of Requests for the recovery of debts not exceeding five pagodas in amount. In their letter accompanying the Charter, the Directors remark :

“With respect to criminal proceedings, we have nothing to add to the instructions already given, unless it is, that the Legislature in the last Session made an Act of Parliament for better preventing the horrid crime of murder, several copys of which we send you herewith. So, if the Commissioners of Oyer and Terminer think it may be a means to prevent or deter persons from committing that horrid crime, they may, in case of conviction, proceed to judgment and execution, and disposal of the body in the manner that the Act directs”.

The Charters of the Mayor's Court <sup>5</sup> thus established four judicatures in Calcutta exercising jurisdiction from the English Crown over British subjects, natives in their employment, and persons who voluntarily placed themselves under the Courts :

1. The President and Council (in 1723 “five of the Council” ; in 1753 “all the Council”) are Justices of the Peace and Commissioners of Oyer and Terminer and Gaol delivery, and hold Quarter-Sessions.

2. The Mayor's Court.

3. The President and Council, a Court of Record, to hear appeals from the Mayor's Court.

4. After 1753, twelve Commissioners to form a Court of Requests.

Turning to the subject of the law administered by these Courts, it may be said at once that it was the law of England as it stood at the introduction of each of the Charters, *i.e.*, 1723 to 1753, it was the law of England as it stood in the year 1723, and from 1753 onward as the same law stood in 1753. Impey at his Impeachment stated :

“Among the records I found the instructions sent out by the Court of Directors with that Charter (the Charter of 1753), and expecting, as I really procured, great information from them, ordered them to be copied. These instructions direct the new Court how to proceed against prisoners not understanding English, tells what crimes are misdemeanours, what simple felonies, what within clergy, what capital, and all the distinctions on that head ; what punishments are to be inflicted, amongst which transportation is particularised ; how to proceed in each case ; and gives precedents of

5. For earlier Charters of the Crown see Cowell : *History and constitution of Courts, and Legislative Authorities in India*, chap. I.

indictments for each crime, the oath for an interpreter where the prisoner does [ lxxxvi ] not understand English, directions how to proceed when any Portuguese, Gentoo, or native of India, not born of British parents, happens to be prosecuted for any capital offence, which the instructions say 'will probably often happen'; they are told that stealing goods above the value of forty shillings out of a dwellinghouse, above five shillings privately out of a shop or warehouse, or stable, and from every person above five shillings is capital: they are told that the jury may mitigate the sum so as to make the offence clergyable, and the clerk of the peace is directed to mark the judgment [s] so mitigated to distinguish them. They give precedents of indictments for all these crimes, and add indictments for burglaries, highway robberies, and horse-stealing, as cases 'likely to happen.' In a marginal note they are told in cases where any Act of Parliament makes a crime felony, which was not so at common law, the indictment must conclude 'against the form of the Statute'. They are directed 'to enlarge on His Majesty's princely goodness, who on the humble application of Honourable Company, has thought fit to extend his care and the benefit of his laws to his most distant subjects in the British settlements in the East Indies. This the Director desire 'may be done the first time the Commission is put into execution". <sup>6</sup>

Sir Gilbert Elliott <sup>7</sup> contended that Sir Elijah Impey was mistaken as to the date of these instructions, and asserted that they were in fact sent out with the Charter of 1723. No evidence is forthcoming to support Sir Gilbert's assertion, and, on the other hand, in a volume of Early Parliamentary Papers (printed) there is to be found "Extracts from the Book of Instructions for putting into execution the E. I. Co's Charter for erecting and holding Courts of Justice, Civil and Criminal, at Fort St. George and the Company's other Settlements in the East Indies, dated the 8th June, 1753, 26th year of the reign of George the Second". These extracts clearly are made from the instructions cited by Impey.

During Impey's impeachment, Mr. Boughton Rous was asked whether he knew "anything of any intention to carry the English criminal law into execution in the town of Calcutta?" He replied: "I have found amongst my papers a copy of a proclamation issued by His Majesty's Justices for the town and district of Calcutta at their Quarter Sessions held on the 3rd June, 1762, in which such an intention is announced". A diligent search for a copy of this Proclamation has been made at the Record Department of the India Office, but in vain. <sup>8</sup>

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6. Sir J. F. Stephen : *The story of Nuncomar and the Impeachment of Sir Elijah Impey*, vol. II, pp. 20-21. Sir J. F. Stephen did not "attempt to verify this statement of Impey's."

7. The Mover of Impey's impeachment: afterwards the first Lord Minto.

8. The House of Commons, on Feb. 25th, 1788, called on the Court of Directors to produce a copy of the Proclamation, but apparently this order was never complied with. I have been unable to trace this document either among the India Office Records or those of the Calcutta High Court. But see Long : *Selections*, p. 430,

[ lxxxvii ] Among the records following will be found "an Account of the several persons who have been prosecuted in the Court of Quarter Sessions in Calcutta, for criminal offences according to the Laws of England, from the 1st of January, 1762, to the 1st of October, 1774".<sup>9</sup> It will be observed that the first case is dated August 27th, 1762, *i. e.*, subsequent to the proclamation mentioned in the preceding paragraph. Out of forty-five cases, in which sixty-two persons were implicated, the natives are in the majority, and in twenty-one cases the sentence was capital. Two cases may be taken as illustrative of the law enforced by the Courts. These I take from Verelst's *View of the Rise, Progress and Present State of the English Government in Bengal*, observing, however, that the first case does not appear in the list abovementioned. Verelst has left it on record as his mature judgment: "as well might we transplant the full-grown oak to the banks of the Ganges, as dream that any part of a code, matured by the patient labours of successive judges and legislators in this island, can possibly coalesce with the customs of Bengal".<sup>10</sup> The first case he cites to prove his point is as follows:—

1. "In the year 1762, a native detected one of his women in an act of infidelity. Throughout the East, women are wholly subject to the will of their master, and every husband is the avenger of his own wrongs. The man, therefore, satisfied of her guilt, proceeded to punishment, by cutting off her nose. He was arraigned at the Calcutta Sessions. He confessed the fact, but urged that he had done nothing to offend the laws and customs in which he had been educated: that the woman was his property; and that, by such customs, he had a right to set a mark upon her, for her infamy; that he had never heard of the laws by which they tried him; did they believe that if he had known the punishment to be death, he would ever have committed what they now called a crime? The man notwithstanding this defence, was condemned and hanged; for, if the Court possess jurisdiction, they must proceed according to the English laws".<sup>11</sup>

2. The second case is interesting as forming a precedent for the Supreme Court's sentence upon Nanda Kumar ( "Nuncomar" ) on his conviction of forgery. "The amazing extent of public and private credit in Great Britain", writes Verelst in 1773, "has induced our legislators to punish forgery with death. Under this law a native of Bengal was condemned in the year 1768. But so extravagant did the sentence appear, where experience had never suggested the principle, such the disproportion in their eyes between the punishment and crime, that the principal inhabitants of Calcutta expressed their astonishment and alarm in a petition to the Governor and [ lxxxviii ] Council; and, upon a proper representation, Rada Churn Metre received a pardon".<sup>12</sup>

9. See Appendix. Sir J. F. Stephen cites this paper but gives a wrong reference.

10. Verelst: *View, etc.*, p. 134. 11. Verelst: *View, etc.*, p. 26.

12. *Ibid.*, p. 141 and Appendix p. 177. See also collection No. 8, India Office Record Department, Parliamentary Branch, and Long: *Selections*, No. 840. Radha Churn Mitra was a grandson of Holwell's old foe, Govindram Mitra, the "Black Collector" of Calcutta.

Verelst, in his *View, etc.*, devotes a whole chapter to maintaining "the impossibility of introducing English laws into Bengal". He points to native customs absolutely irreconcilable with English principles—polygamy, child marriages, the customs of the harem, etc., etc. ; and reflects upon the fact that in Great Britain "not less than one hundred and sixty felonies are created by acts of Parliament". He recognises that Europeans in Indian settlements must be subjected to British civil and criminal law, and for that reason urges that, with the exception of the few district officers of the Company, Europeans should not be allowed to reside outside the Company's territorial limits. The principles, which his oppressively pompous sentences make it difficult for the reader to follow, are practically these :—

1. The laws of England are the result of centuries of varied experience, and minute science, and are adapted only to a free people.

2. The natives of Bengal are not capable of receiving a free government, and therefore cannot receive the law of a free people.

3. As the natives must be left to their own customs and laws, justice must be administered by native judges : but to prevent "independency", the Governor-General and Council should issue edicts from time to time, for "power must reside in the conquerors".

4. A Court of English justices, assisted by worthy natives, might hold an appellate jurisdiction, but "to invest Europeans with an original judicature throughout the country would be productive of infinite oppression".

The replies of the Collectors to the enquiries addressed to them in 1790, show that the idea of maintaining a British Government in India, and yet leaving the native law substantially unchanged was an idea, which rested on inadequate information both as to the character of Muhammadan civilisation and the actual circumstances of the country. Verelst held the view that English law was a monument of perfection—a view commonly held by Englishmen at that time. To us the eighteenth century criminal law is not an amiable subject for contemplation. Its introduction, as it stood and as it was developing itself, into Calcutta was bound, as in the instance of the punishment of forgery or petty thieving by death, to have deplorable consequences : on the other hand the introduction into Bengal (for British subjects and their dependents) of the English law with all its imperfections and excesses, was a necessary step towards the substitution of a carefully considered criminal and civil code, adapted to the people for whom it was intended, [ lxxxix ] and patent to expansion and revision, according to the even changing circumstances of the State and the conditions of native life.

The weakness of the Judicatures of 1723 & 1753 arose from the fact that they tended to be in fact but branches of the Company's executive government, and they therefore afforded imperfect means of resistance to the class interests of the Company's servants, at a time when the Company's servants were bidding fair to monopolise the trade of the

country.<sup>13</sup> It would occupy more space than the nature of our general subject would justify if we were to undertake a discussion of the charges brought against these Courts by Bolts in his *Considerations*. It may be held that Verelst does satisfactorily meet these charges, but it must also be admitted that in doing so he unconsciously betrayed the weakness of a system under which executive government and judicial authority were combined in the hands of men who had commercial interests of their own to defend.<sup>14</sup> The Aldermen of the Mayor's Court were as a rule anything but what the term "alderman" etymologically implies : they were mostly junior servants of the Company in the days when the Company's servants, without any special training at home, began their Indian career a little more than midway in their teens.<sup>15</sup> Nor was the Charter itself so explicit a guide as occasion required : it left room for doubts as to the amenability to *sub poena* of witnesses residing beyond the Maratha Ditch<sup>16</sup> : and left room for doubts which could not be dispelled without a tedious reference to law authorities in England.<sup>17</sup> It cannot be doubted, however, that Cowell's characterisation of the period covered by the activities of the Mayor's Court is over drawn. The Professor has taken Lord Macaulay rather too seriously.

From the *Sixth Report of the Committee of Secrecy, 1773*, we learn that, where debts had to be realised from natives living outside the limits of the Company's settlements, other methods than recourse to the Mayor's Court were resorted to. "Where the debtor was dependent on, or connected with the Company, in the course of [xc] commerce, and residing (as these persons generally did) in the neighbourhood of any of the Company's settlements, the general practice was to lay hold of his person by their own authority, without applying to any Court or Officer of the Government,<sup>18</sup> and they sometimes ventured to exercise the same right, even where the debtor did not fall under that description ; but this was an abuse, though generally overlooked by Government. In the former case, the Government tacitly allowed and countenanced

13. In 1767, however, the Mayor's Court protected, in despite of the Governor and Council, a Mr. Atkinson who, having obtained the Company's permission to go from Fort Marlborough to China, came instead to Bengal.

14. Bolts points out : "By the charter of George I, the Mayor's Court had the power of electing their own members to fill up vacancies ; and, while such continued to be the practice, that Court was the bulwark of all security with regard to property in the settlement, and might be considered in a great degree as independent. Indeed it was so much so at that time (before the Company had adopted, in so common and frequent a manner, the practice of seizing persons and sending them prisoners to England) that it was deemed inconvenient to the Company who has many decrees given against them, and this was thought the great defect before hinted at. against which, though not expressed, the Company petitioned the Crown, and obtained the Charter of George II, whereby the right of electing Aldermen was transferred from their own body to the Governor and Council, who thereby had the unconstitutional power given them of making and unmaking the judges". *Considerations*, vol. I, p. 8.

15. On the occasion of Nanda Kumar's trial, the combined ages of the Under-Sheriff of Calcutta, and the acting Persian Translator scarcely amounted to 42.

16. The eastern boundary of Calcutta. 17. See *Sixth Report of the Committee of Secrecy, 1773*.

18. By "Government" in this passage the Nawab's Government is meant.



the practice of seizing and detaining the debtor, it being much the disposition of the Government to give all encouragement to the Europeans, from whose commerce their country then derived such considerable advantages. In cases where it was not thought prudent to proceed in this manner, the only remedy was by application to Government ; but your Committee were informed that there was seldom occasion to make use of either of these ways to compel payment of any debt to the Company or its servants, for that the persons dealing with them reaped so much benefit from that connection, that there seldom arose any dispute between them. . . . . The French and Dutch exercised the same privilege of seizing their debtors, and even continued the practice after the Company's acquisition of the Dewanee".<sup>19</sup>

In 1774 the Supreme Court of Judicature took the place of the Mayor's Court, and at once commenced a conflict between the Judges and the Governor-General's Council as to the Court's right to intervene in causes in which the revenue and the revenue officers were concerned. It is, therefore, interesting to note that a similar conflict had arisen between the older Court and the Collector of Calcutta. In 1753 Holwell protested that "the bulk of the causes that come before the cutcherry are for sums cognizable by the said Court of Requests,"<sup>20</sup> and, on 1st March, 1754, the Mayor's Court wrote to the Directors, complaining that the Collector refused, at their bidding, to release a native whom he had confined and who was a party to a cause brought into their Court.

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19. "Your Committee find, by the Secret Consultations lately received by the *Lapwing*, that this practice having been lately prohibited by the President and Council, the French in very strong terms, remonstrated against this order, as a violation of a right which they had always held and exercised under the Country Government ; but that the President and Council denied this pretension, and insisted that the French should have recourse to the courts of justice to compel payment of their debts : but your Committee do not find that this dispute has been brought to a conclusion."

20. Fort William Consultations, 29 October, 1753. See *Bengal : Past & Present*, vol. x.

## APPENDIX.

[xci—xciii]

*Early Parliamentary Papers relating to India—printed in 1788. Coll. No. 22.*

An Account of the Several Persons who have been prosecuted in the Court of Quarter Sessions in Calcutta, for Criminal Offences, according to the Laws of England, from the 1st of January 1762 to the 1st of October 1774 ; Specifying the Names and Crimes of such Persons, together with the Dates of such Prosecutions respectively, and which of the said Persons were convicted, and the Sentences pronounced on such convictions.

Serial No.	Date of Prosecution.	Name of Persons tried.	Crime	Verdict.	Sentence.
1	1762 Augst. 27th ..	Loll Khan ...	Privately Stealing.	Not Guilty.	
2	Novr. 27th...	Sook Dev, and Diaram	Murder ...	Do.	
3	30th	Enasse Gosaul .	Felony ...	Guilty of an assault, but not of the Felony.	To be flogged at the Cart's Tail every Monday for a month with a cat of Nine Tails.
	...	Owen John Soorkeas	Burglary ...	Not Guilty.	
5	Decr. 1st ...	Kirporam Mollay Brijoo Hazerath ...	Felony ...	Guilty, Stealing, Value 10 <i>d</i> .	Do.
6	...	L. Granidier ...	Murder ...	Not Guilty.	
7	3rd ...	Allady Panche	Rape ...	Guilty ...	Death.
8	17th ...	Ramram ...	Murder ...	Pleaded Guilty	Do.
9	...	Caville ...	Burglary ...	Guilty	Do.
10	1763 Febry. 28th ...	E. Barry	Burglary ...	Not Guilty.	
11	Augst. 27th ...	Dooberage Mignel Van Colsten ...	Murder ...	Not Guilty ...	
12	Septr. 1st ...	Jaffier Golaum Hossein	Burglary	Guilty. ...	Death.
13	Novr. 29th...	Occoor	Murder .	Do. ...	Do.
14	30th ...	Mary D'Rosario Bernando ...	Felony ...	Acquitted, Not Guilty	
15	...	Diaram ...	Felony ...	Discharged, the Prosecutor not appearing. Guilty Stealing to the value of 10 <i>d</i> .	To be whipped at the Public Market Place Four successive Mondays.
16	Novr. 30th ...	Marshall Johnson ...	Assault ...	Guilty	To be imprisoned till next Sessions, then left to the Discretion of the Justices to release him, on finding surties for his good Behaviour.

Serial No.	Date of Prosecution	Names of Persons tried.	Crime.	Verdict.	Sentence.
17	1762 Nov. 30th ...	Bridjoo ...	Murder ...	Accessory to the Murder.	Death.
18	1764 Febry. 28th ...	Collin Campbell ...	Assault ...	Pleaded Guilty	Fined £100 to be imprisoned One Month, and to find Security for his good Behaviour, himself in £1,000, and Two Sureties in £500 each.
19	May 28th ...	Fras. Russell ...	Forgery ...	Guilty ...	To be whipped round the Town at the Cart's Tail.
20	Sepr. 11th ...	Susanna ...	Murder ...	Not Guilty ...	To receive 100 Stripes with a Cat of Nine Tails.
21	12th ...	Robt. Baker ...	Felony ...	Guilty of Stealing to the value of 10d.	
22	...	Jean La Finesse ...	Assault ...	Guilty ...	A small Fine.
23	Decr. 14th ...	Frederick Hinnings ...	Murder ...	Not Guilty.	
24	1765 Febry. 27th...	Radachurn Metre ...	Forgery ...	Guilty ...	Death. Pardoned.
25	May 27th ...	Shake Sobdy ...	Felony ..	Do. ...	Death.
26	Augst. 27th...	Contou ...	Murder ...	Do. ...	Do.
27	...	<div> <div>Coil</div> <div>Mahomed Reza</div> <div>Kedaine</div> <div>Tittao Gausee</div> <div>Ariff</div> <div>Babaaloo</div> <div>Cotubbe Monalda</div> <div>Anunderam</div> <div>and</div> <div>Noon Mahommed</div> </div>	Felony and Murder.	Pleaded Guilty of the Felony	Death.
28	Novr. 27th ...	Nathanl. Freeman ...	Assault ...	Guilty ...	Fined £ 50 and to be confined until he find security for his good Behaviour for Twelve Months.
29	1766 Febry. 27 ...	Bavauny ...	Murder ...	Not Guilty ...	Death.
30	...	Lallchund ...	Do. ...	Guilty ...	
31	...	Netow ...	Do. ...	Not Guilty ...	
32	May 27th ...	Lallbaharry ...	Do. ...	Do. ...	Death. Do.
33	Augst. 27th ...	Duwahmerand ...	Do. ...	Guilty ...	
34	...	Rhomeney ...	Do. ...	Do. ...	
35	Novr. 27th ...	Manas Romken ...	Rape ...	Not Guilty ...	
36	1767 Febry. 27th..	<div> <div>John Poole</div> <div>Robt. Sherman</div> <div>Laurence Murray</div> </div>	Assault ...	Not Guilty ...	
37	May 27th ...	Betty ...	Murder ...	Guilty ...	Death.

Serial No.	Date of Prosecution.	Names of Persons tried.	Crime.	Verdict.	Sentence
	1767				
38		Anthonia Da Costa ...	Assault ...	Pleaded Guilty.	Find £20 and imprisoned One Month
39	August. 27th...	Mark Mathewson ...	Felony	Guilty, Stealing, Value 10 <i>d.</i>	Committed to the Public Gaol for 3 Months, to be publicly whipped through the Town Twice, to receive each time 100 Lashes on his bare Back with a Cat of Nine Tails; and afterwards to be committed to Bridewell to Hard Labour for 6 Months.
40	August. 27th...	Saml Farley ...	Assault ...	Not Guilty.	
41	Novr. 27th...	Mathw. Callaghan Price Trumbull Walter Powers	Felony ..	Not Guilty.	
42	.....	Ram Gose ...	Murder ...	Do.	
43	.....	Sitteram ...	Do ...	Do.	
	1768				
44	Febry. 27th	Emandy ...	Murder ...	Not Guilty.	
45	Novr. 27th...	Wm. Macintosh ...	Assault ...	Guilty.	Find £20 Stg., and to find Security for his good behaviour for 12 Months.

*N.B.*—The Preceding Account is conformable to the Order of the Honourable House, so far as the Documents at the East India House will allow—the Proceedings of the Court of quarter sessions at Calcutta for the year 1762 only commencing the 27th August of that year; and there has been no Proceedings of the said Court received of a later Date than the 27th Novr. 1768.

It cannot be ascertained from any Document in the Company's Possession in Europe, which of the Sentences have or have not been carried into Execution, except that passed on Radhachurn Metre, who was recommended for Mercy, and afterwards pardoned by His Majesty.

East India House, }  
3rd March, 1788

R. Hudson,  
*Pro. Examr. of India Correspondence.*

## CHAPTER VI.

### THE ENGLISH ACQUIRE THE TWENTY-FOUR PARGANAHS

[xciv] The Treaty, signed on the 9th February, 1757, between Siraj-ud-daula on the one hand and Admiral Watson and Colonel Clive on the other, has been characterized as “neither honorable nor secure”. It was not honourable because it “did not punish the Nabob for the outrage by which the war was occasioned, or indemnify the Company for the expense at which it had been carried on;” it was not secure, because, while it was suspected that the Nawab was intriguing with the French, whose advent on the scene was daily expected, it failed to provide against the combination of the Nawab and the French in an attack on the English. <sup>1</sup>

In justice to Clive it is necessary to remember that in the early part of 1757 his position had been extremely critical and he had come to feel that, “if something was not done, the squadron and the land forces would be soon starved out of the country”. In the early morning of 5th February Clive conducted a brilliant attack on the Nawab’s camp in what is now the Sealdah district of Calcutta; and such was the success of this effort that Siraj-ud-daula withdrew his forces beyond the Salt Lakes. Admiral Watson believing the Nawab to be still far too confident in his superior numbers to be ready to listen to the Select Committee’s peace proposals, sent his Flag Captain to Clive, with a letter urging that another blow should be struck before commencing negotiations.<sup>2</sup> On the 9th February, however, the Nawab intimated his readiness to comply with the terms of peace stated by Clive. When the circumstances in which the Treaty was concluded—the military preponderance of Siraj-ud-daula’s army, the expectation of the speedy arrival of either Bussy’s troops or a powerful French squadron, the want of supplies experienced by the English—are remembered, it becomes obvious that Clive had good reasons for snatching at the opportunity of coming to terms with the Nawab. It is, however, important to notice that the essential claim made by the English was to be restored to the *status quo ante bellum*, and to be allowed to enjoy to the full all the privileges obtained in the past by “phirmaunds and husbhalhookums sent from Delhi”.

The text of the Treaty of the 9th February is best studied in Mr. S. C. Hill’s *Bengal in 1756-57*. Article III. provides: “All the Company’s factories seized by the Nabob shall be returned. All the money, goods, and effects belonging to the Company, their servants and tenants, and which have been seized and taken by the Nabob, [ xcv ] shall

1. Elphinstone: *The Rise of the British Power in the East*, p. 290.

2. “Till he is well threshed out, Sir, flatter yourself he will be inclined to peace. Let us therefore not be overreached by his politics, but make use of our arms, which are more to be depended upon, and I dare say will be much more prevalent than any treaties or negotiations.” Watson to Clive, 7th February, 1757. Hill: *Op. cit.*, vol. ii, p. 215.

be restored. What has been plundered and pillaged by his people shall be made good by the payment of such a sum of money as his justice shall think reasonable".

The Nawab's acceptance of this condition is most unsatisfactorily worded :— "I agree to restore whatever has been seized and taken by my orders, and accounted for in my Sincany".<sup>3</sup> The Nawab, however, had by word of mouth promised a sum for the compensation of losses sustained by private individuals, and it is probable that this and other verbal undertakings on the part of the Nawab account for the perfunctory way in which the subject of compensation is dealt with in the Treaty itself.

In regard to the matter of alliance, Clive had proposed to the Nawab's agents to include in the Treaty an article of alliance between the Nawab and the English against the French, but this proposal Siraj-ud-daula would not adopt. The Nawab, however, wrote to Clive and Watson, protesting that their enemies would be also his enemies, and these assurances were regarded as sufficient.<sup>4</sup> What then the English asked for in February, 1757, was in sum to be restored to the position which they had held previous to the Siege of Calcutta, a sanction for their mint, and that "the villages which were given to the Company by the Firmaun [*farman*], but detained from them by the Subah, be likewise allowed them ; nor let any impediment or restriction be put upon them by the zemindars".<sup>5</sup>

The Treaty entered into with Mir Jafar on 3rd June, 1757 (*i. e.*, prior to the victory of Plassey), differs from the Treaty with Siraj-ud-daula, in that—

1. It excludes the French from establishing settlements in Bengal, Bihar and Orissa.
2. It is definitely a treaty of alliance.

3. It initiates the process of destroying Mughal military power in Bengal by engaging that the Nawab "will not erect any new fortifications below Houghly, near the river Ganges", *i. e.*, it practically places the entrance to the great river-system of Bengal in English keeping.

4. It, in definite terms, compensates the Company for the losses sustained during its war with Siraj-ud-daula.

In regard to the Company's lands, the relevant articles of the Treaty with Mir Jafar run :

"8. Within the ditch<sup>6</sup> which surrounds the borders of Calcutta, are tracts of lands belonging to several zemindars ; besides [ *xcvi* ] this, I will grant the English Company six hundred yards without the ditch.

3. Sincany, Ives (*A Voyage from England to India*, p. 115.) explains, means "Government books."

4. Hill. *Op. cit* , Vol. I, pp. cxlviii-ix.

5. Hill : *Bengal in 1756-57*, vol. ii, pp. 215-17, and Aitchison : *Collection of Treaties, Engagements, etc.*, Vol. I., p. 181.

6. The ditch dug by the inhabitants during the Maratha panic of 1742. Wilson : *Old Fort William in Bengal*, Vol. I., p. 156.

"9. All the land laying to the south of Calcutta, as far as Calpee, <sup>7</sup> shall be under the zemindary of the English Company, and all the officers of those parts shall be under their jurisdiction. The revenues to be paid by them in the same manner with the other zemindars." <sup>8</sup>

When the English took possession of the revenue rights of the Three Towns in 1698, the former holders received pecuniary compensation. The dispossessed holders of the Twenty-Four Parganahs, however, seemed to have suffered without receiving compensation of any kind. In a letter to the Court, dated 3rd November, 1172, Warren Hastings and his Council write :—

"The humane intention shewn in your commands of the 30th June 1769, and recommended in many of your letters since that date, to the rights of the zemindars who have inherited lands from their ancestors, encourages us to solicit your compassion for the antient proprietors of the 24-Pergunnahs, or Calcutta lands which became the Company's zemindarry by the treaty of Plassey, and from which they were consequently dispossessed. A small part of these lands were before that time united within the zemindaries of Burdwan and Nuddea, whose zemindars are amply provided for. The above zemindars and talookdars have continued since that time in a state of extreme indigence ; some of them have large families to maintain. It has been a usual rule of the Mogul Government, when any zemindar was divested of authority, to allow him a subsistence out of the rents of his zemindarry, proportioned to the annual income of it ; this proportion commonly amounted to a tenth. We would not have recommended so large an allowance for these people ; we are persuaded that they will be contented with a much more moderate income, and receive it with gratitude. As this indulgence has been extended to all the other zemindars in both the provinces, since they were placed under your government, we have judged that this representation of the case of those who has been excluded from it would not be unacceptable to you". <sup>9</sup>

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7. Calpee (Kalpi). The land granted by the *sanad* actually extended to the border of the Azimabad pargana, and thus further south than Kalpi. See Major R. Smyth: *Statistical and Geographical Report of 24 Pergunnahs District*, Calcutta, 1857 p. 68.

8. Aitchison: *Op. cit*, Vol. I., p. 186. The text of the Treaty as given in Hill's *Bengal in 1756-57* (Vol. ii., p. 384) runs ; "That the country to the south of Calcutta, lying between the river and the lake and reaching as far as Culpee, shall be put under the perpetual Government of the English. in the manner as now governed by the country *Zemindars*, the English paying the usual rents for the same to the Treasury."

9. Apparently nothing was done, for, in October 1776, Hastings writes :—"I think it necessary to mention that I do not propose the appointment of Superintendent of the *bunds* of the xxiv Pergunnahs, but as a temporary measure only. Whenever the ancient zemindars shall be restored to their rights, or the lands shall be let on permanent leases, such an office will certainly be unnecessary, as the case of the *bunds* will be best left to the charge of those whose interest will be to keep them in order. The xxiv Pergunnahs are at present the zemindary of the Company, by the dispossession of the legal proprietors, whose hard case I have long since recommended to the justice of the Company, and mean to propose to the consideration of the Board; whenever the new Settlement shall be under consideration, having been at some pains for that

[xcvii] The English lost no time in securing their new acquisitions. On 26th July Clive wrote from Murshidabad to the Court of Directors :

"It is impossible as yet to form a judgment how much the granted lands will produce you, as the Europeans are quite ignorant of the extent of the country between the river and the lake;<sup>10</sup> but in order to give you some idea of the value, I will venture to estimate it at ten lacs per annum. An officer on the part of the Nabob is already dispatched to Calcutta to begin the survey in company with one of yours."

*The Press List of the Ancient Documents preserved in the Imperial Record Department* gives the following *precis* of a letter, dated 27th July, from Clive and the Members of Council at "Muxadavad" :

"Informing that the Connago's (Kanungo's) man has been sent on behalf of the Nabob to take an account of the lands, villages, districts, revenues, and other particulars of the territory from the Great Lake eastward of Calcutta as far as Culpee on the South ; recommending that, although these men may not be able to trace a proper boundary, it may be well for us to send capable persons to survey the lake, because, as is supposed the lake extends as far as Culpee ; then the Company's territory will be almost surrounded by [xcviii] water, and a communication from Baag Bazar<sup>11</sup> to Kishnapore,

purpose to collect the names of the old proprietors and their descendants with the property originally held by them in the old Pergunnahs." Francis : *Minutes, etc.*, pp. 133-34.

Mr. J. Westland (*Report on the District of Jessore*, 2nd ed., 1874) throws some interesting light on the history of one of the dispossessed proprietors in the xxiv Parganas. Manohar Roy, Raja of Jessore, died about the year 1705 and was succeeded by his son Krishna Ram Roy. Sukh Deb Roy, who succeeded Krishna Ram Roy, was persuaded by Manohar's widow to make over four annas share in the estate to Syam Sundar, brother of Sukh Deb Roy. On the death of Syam Sundar, about 1756, the four annas share became untenanted. "At that time," writes Mr. Westland. "the East India Company received from the Nawab a grant of certain land near Calcutta. and one of the zemindars, whom the Nawab dispossessed in order to make this grant, was named Salah-u-din Khan. This man, representing that Syam Sundar's property had no heirs, requested its bestowal upon himself in requital for the loss of his former zemindari, and the Nawab not unwilling to give what was not his own, bestowed upon him the four annas share of the raja's estates . . . . The four annas share lay mostly within the pergunnah of Saydpur, and was therefore known as the four annas estates, or as the Saydpur estate, both of which names exist to this day . . . . At the time of the permanent settlement it was in the possession of a Mussulman lady Mana Jan (Sala-u-din Khan's widow) and she is noted as having been a very good manager of her property. She brought it in safety through the critical time that succeeded the permanent settlement, and saved it from the dangers which overwhelmed almost all the other zemindars. In 1814 we find the estate in possession of Mana Jan's half-brother, Haji Muhammad Mahsin, who in that year died. Having no heirs, he by will made his estate over in trust for the benefit of the Imambara at Hooghly (Hughli), which has since that time enjoyed its revenues." For Haji Muhammad Mohsin and the Hughli Imambara see an article by Syed Hassain in *Bengal : Past and Present*, Vol. ii., No. 1, January 1908.

10. The Salt Lakes, in recent times much diminished in extent. Up to the time of Warren Hastings the usual route to Dacca lay across the lakes. *Vide Bengal : Past and Present*, Vol., v pp. 171-73.

11. Bagbazar. Bagbazar in the northern extremity of Calcutta. A redoubt at this place was the scene of a skirmish during the siege in 1756.



on the borders of the lake, will effectually secure Calcutta from any country enemy, and stating that if the boundary can be exactly determined, they are inclined to believe that the Nabob will not only assent thereto, but put us in possession thereof, and confirm the same by ample grants."

In a letter dated 3rd August, 1757, Admiral Watson, who had been requested to provide a surveyor for the newly acquired lands, replied :

"It appears to me to be a work requiring so much care and exactness, that I know of no one in the squadron capable of it ; and, if there were, I am very certain such a performance will require much more time than I shall continue here. But if upon an enquiry in the squadron, you find anyone who will answer your purpose, and is willing to remain in India, I will give my orders for his being discharged."<sup>12</sup>

The Council, however, were able to secure the services of Captain Robert Barker ; and, on the day following the receipt of the Admiral's letter, Barker was told off "to accompany the Connegoe's man in the survey of the territory to be granted to the Company, taking with him Captain William Swallow, an artist and a seaman, and to prepare a plan of the course of the Great Lake, sound its depths of water," etc.<sup>13</sup>

Barker's report when completed was sent Home to the Court of Directors and neither the original nor any copy of it can now be traced. The Council at Fort William, however, appointed one of their Senior servants, William Frankland, as Collector of the New Lands and entrusted to him the task of compiling a statistical survey of the newly acquired lands to the south of Calcutta. This survey cost nearly Rs. 50,000, "as it was necessary for Mr. Frankland to carry a great retinue and a large number of servants of all kinds ; add to this that the King's Connegoes were maintained at our expence, as well as the gomasthas and other servants belonging to the zemindars, whose accounts we sent for."<sup>14</sup> In forwarding Frankland's report to the Court of Directors the Council write :

"No. 49 is a general abstract of all the pergunnahs to the south-ward<sup>15</sup> of Calcutta, and points out in a very circumstantial manner the quantity of ground contained in each of those pergunnahs, the number of villages, markets, zemindars [ xci ] and farmers, how much ground is assigned over to the Gentoo idols, to servants, etc., what quantity lays barren and uncultivated, and the net number of begahs that pay rent to the zemindars. By which it appears that out of 816,446 begahs the zemindars collect their rents on only 454,804 begahs, the rest being either barren and untenanted, or assigned over to servants, idols, etc.

12. Long : *Selections*, No. 245. 13. *Press List*, Imperial Record Department, 4th August, 1757.

14. India Office Records, Letter received from Bengal, Vol. iv., p. 101.

15. Long (*Op. cit.*, p. 157) says that a return of two parganahs to the north of Calcutta was also forwarded. To the north of the town of Calcutta the parganah Calcutta stretched, with the Hughly as its western boundary, to about Titaghur. North of this was parganah Haveli Shahr (corruptly Salishahr), in which the modern Barrackpore and Ishapore are situated.

"The revenue produced by the ground paying rent amounts to Rs. 5,54,604,479 <sup>16</sup> per annum, to which if we add the ground assigned over to idols and what lays untenanted (which in a few years will be cultivated and settled with riots), the Company will be able to collect between nine and ten lack of rupees on the ground to the southward, computing the value of each begah as at present paid, and supposing the pergunnah contain no more than what the zemindars have given Mr. Frankland an account of; but this remains yet to be settled, and will, we flatter ourselves, turn out more when a proper measurement is made of the whole, which ought and must be affected, as the square covers in each begah differ almost in every pergunnah as to the rents collected on them. We have great hopes likewise that by a proper management and encouragement, the value of the grounds in our boundary will in a few years be enhanced, and by that means the rent thereof increased.

"By the above abstract the revenues to be paid the Nawab for the southern lands amounts to Rs. 2,15,000 or thereabouts; but, as we have not entirely adjusted that point, and are in hopes of settling it more to the Company's advantage, we cannot at present precisely ascertain what the gains of this zemindarry will amount to". <sup>17</sup>

For the first sixteen months after coming into possession, the Company's government kept the collections of revenue throughout their newly acquired lands in their own hands. In May, 1759, however, they decided to let out the revenues to farm, and on the 21st of that month the following Rules were issued:

"Notice is hereby given that any person or persons who are willing to farm any of the pergunnahs or parishes in the Hon'ble Company's new lands, may send in their proposals to the Board within twenty days from the date hereof; a lease [c] for which farms, if their proposals are accepted, will be granted them for the term of three years on the following conditions:

"That the rents be not increased on the riots of the present tenanted riotty grounds untenanted (or Badgi jemin <sup>18</sup>) and in case any jungles (or patit) grounds are cleared, the farmer is to pay a russud or annual increase for the same according to the payments in the before mentioned term of three years. As soon as the measurement or Jumma-bundy is finished, the farmer is to pay for the increase of lands agreeable thereto. The farmer is not to turn out any riots that duly pay their rents agreeable to their pottahs. No trees are to be cut down without leave. The new farmers are to accept of the balances of the riots with the former farmers. The judicial authority is to be reserved to the Company

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16. So the figure appears in the India office Records. Long has Rs. 5,46,04,476 per annum—an incredible sum. *Vide Selections* No. 378.

17. India Office Records, Letters received from Bengal, Vol. iv, p. 95, *et. seq.*: "The lands of the Twenty-four Pergunnahs, ceded to the Company by the treaty of 1757, which subsequently became Colonel Clive's jaghier, were rated on the King's books at two lack and twenty-two thousand rupees. These lands were, for the space of sixteen months, retained in hand on the Company's account, under the inspection and superintendence of a collector, Mr. Frankland, whose activities, abilities and integrity, in the execution of that trust, stood unimpeached." Holwell, *Interesting Historical Events*, part I., pp. 217-18.

18. *Bazi-zamin*.

with all royalties, etc., privileges appertaining to them as proprietors, and lords of the manor. The farmer is not to decide the disputes of caste, nor is he to licence marriages in his district without proper authority. If any of the ryots die without lawful heirs, the farmer is to take a true and exact inventory of his or their effects and send it to the Cutcherry, but is not to deliver or give up the said effects to anyone without an order. The farmer is to observe and obey all such orders as shall be sent him from time to time concerning the Company's business. The farmer is to take proper care and guard his districts with such people as shall be allowed him. He is not to grant lands for road, banks, etc. (Badgi jemin) without leave. He is to collect and receive rents from the ryots as usually have been collected by the former Ezardars <sup>19</sup>; he is also to repair all banks, dams, drains, etc., as customary". <sup>20</sup>

In June a number of natives came forward with an offer to pay net collections of the past year and an excess of Rs. 1,10,001, and submit to a penalty of forfeiting twice the amount of the excess if it should be proved that they had "increased any tax or sum upon the ryots more than common". On these terms they sought to farm the revenues of the Twenty-four Parganahs for a period of three years.

Holwell comments on this proposal in a minute entered on the proceedings of 11th June, 1759. He maintained that "keeping the lands in our own hands will never lead us to a knowledge of their real value", and, after bestowing unstinted praise on Frankland said "it is now impossible for any one man with the most extensive talents and integrity, to superintend this revenue in such a manner as to prevent the Company being injured; his attention cannot be everywhere, confidence must be placed in a multitude, and it happens most unluckily that this [ci] confidence centres from necessity in a race of people, who from their infancy, are utter strangers to the very idea of common faith or honesty". As to the proposal that had been made, he was apprehensive that the whole body of the lands might by a private confederacy "fall into the hands of people with whom we would not trust any part of our own fortunes, or confidence", and, therefore, he would himself offer Rs. 10,000 more per annum on their terms, "not that I wish myself, or anyone else, in possession of them, on terms so vague and artful". In conclusion he said—

"On the whole, therefore, I am of opinion that there is no effectual method to arrive at this knowledge, and make your lands yield every advantage to our Hon'ble employers, but by putting them up to public auction in single pergunnahs, under the restrictions already published. People of substance will be the only bidders for an entire pergunnah, the bad and unprofitable parts will go with the good and valuable, and the risque of deficiencies in the rents be guarded against; the expences of collecting will

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19. Ijarahdar.

20. Long : *Selections*, No. 416. It had been decided on 2nd February, 1758 "that no Europeans be suffered to purchase any of the Hon'ble Company's farms," *Ibid.*, No. 340. See "the form of a lease to a zamindar in 1766". Long *Selections*, No. 863.

be in a manner reduced to nothing, and this branch of the service be rendered less complicate and intricate by our having 25 purchasers only to account with us, in place of 5 or 600.”<sup>21</sup>

To these proposals the revenue farmers,<sup>22</sup> whom the English had found in possession, naturally made objection, and presented the following humble remonstrance :—

“That the principal part of your petitioners are the ancient farmers of the Company’s new acquired lands, and have, with great labour and care, as well as at great expense, cleared the same from jungles, removing the savage inhabitants of the woods, in order to people the lands with human species, and by an indefatigable, unwearied industry of a period of years, have the happiness to see their labours rewarded and the lands flourish ; for the still greater encouraging and promoting of which, their ancestors removed themselves and families and planted themselves in the heart of the new farmed lands, where they built their habitation, and by their presence and gentle treatment had the pleasure to see their tenants daily increase, whom they looked upon and treated as part of their family, and who were always ready on the least call to assist on any emergency, by which means all dacoits, thieves, etc., had ever been kept out of these lands ; nor would so much of the lands have been barren and waste as there is at present, had not a check been put to our industry by the unjust and exorbitant taxes put upon the lands by the zemindars (or rather by the different Nabobs) by which even the flourishing state we had brought the lands [cii] to has been declining for some years past, and the rents have been constantly decreasing ; when, on the joyful news of the Hon’ble Company’s being to have possession of them, we were again revived with the pleasing hopes that we should see them rise under our care, not only to that flourishing state they were in some years ago but by the mild and just government of our hoped for new masters we should in a few years have the satisfaction to see every beegah of ground produce its proper harvest to the honour and glory of the Hon’ble Company.”<sup>23</sup>

The Council had thus before them in 1759 the problem which was to occupy the attention of the English revenue administrators up to the date of Lord Cornwallis’ Permanent Settlement. The choice lay between collecting the revenue direct from the representatives of the cultivators or from the zemindars, or letting the collections out to speculative capitalists to farm. In 1759 the English decided in favour of the second method, Clive being of opinion that the arguments set forth in Holwell’s letter were unanswerable. It was resolved unanimously “to throw the pergannahs into fifteen lots, and farm them out for three years certain to the highest bidder at public auction, reserving to the Company the royalties of the land, as also the judicial power, fines,

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21. Long : *Selections*, No. 241. Holwell : *Interesting Historical Events*, pt. I., p. 218 : *India Tracts*, p. 1-3, *et seq.*

22. Long describes these persons as “Izardars.” The word properly is “Ijarahdars.”

23. Long : *Op. cit.*, pp 203-4.

confiscations, buried treasures, etc."<sup>24</sup> The auction was held at the Town Hall and the results were as follows :<sup>25</sup>

PARGANAS.	Rs.	PURCHASERS.	Rs.
Magurah	put up at	1,02,000 Radakissen Mullick	at 1,26,100
Moragatcha	"	89,000 Mr. Samuel Griffith	1,20,000
Azimabad	"	71,000 Sookdeb Mullick	80,500
Ghurr	"	14,000 Chaund Haldar	17,000
Meddunmull and Ekaburpoor	"	57,000 J. Z. Holwell	72,000
Causpoor	"	10,000 Edward Handle	15,700
Hattiagur & Meydah	"	50,000 J. Z. Holwell	51,500
Buridge Hatty and Ektearpore	"	50,000 Condoo Gosaul	70,000
Mamudamypoor	"	300 Ramchurn Nye	600
Shawpoor	"	11,000 Sappulliram Biswas	13,300
Shawnagore	"	7,000 Ramchurn Nye	10,300
Dokinsagore	"	2,000 Radakissen Mullick	3,800
Balliabussendry	"	53,000 Ramsantose Sircar	70,000
Calcutta, Maunpoor, Poycan & Haddishur	"	45,000 Radachurn Mullick	81,500
Pichacooley	"	21,000 Bullaram Biswas and Bobany Churn Tagore	33,400
		Sicca Rupees ...	7,65,700

[ciii] The opinions of the Court of Directors on Frankland's report reached Bengal accompanied with directions for the establishment of a Revenue Council. In their General Letter to Bengal of 1st April, 1760, the Directors write :

"94. With respect to the Lands ceded to us, Mr. Frankland's letter is too prolix and not very intelligible, but his account of the different pergunnahs, the grounds and the revenues are judicious and clear. The barren and untenanted lands are very extensive, but through your care and attention, we shall hope for large encreased improvements. Coconut trees will grow in most soils, tho' Bengal we fear falls Northerly for them. We recommend it however to your consideration. Many tracts may be proper for salt, other for paddy, and some may suit the sugarcane ; but as these are matters of such importance to the future prosperity of Calcutta, we will not doubt of your most assiduous application, and we shall entirely and confidently depend upon you. We do not wish to grasp at more than may be equitable or give umbrage to a superstitious and bigotted people, but if among the great parcels of land assigned to priests and idols abuses through neglects may have crept in, such only do we desire you will cut off. In the collection of these Revenues near 800 servants are yearly employed whose wages amount to near Rs. 50,000 per annum, exclusive of large portions of land. This is from ten to fifteen per cent. upon the Revenues, and here perhaps there may be room for Regulations ; but still, if this has been established by ancient custom, and a reform may hazard uneasiness or bring an odium upon us, this is not desired.

"95. In all great and extensive branches there should be many checks, and although we do not doubt the honour and fidelity of our servants, yet we have frequently suffered from their inattention, and remissness; and in so copious a field for invention and improvement we cannot be too careful in methodizing a suitable plan.

"96. We therefore, direct that these new acquisitions be placed under the management of a Committee, to consist of five persons (the second for the time being to be the head, together with, at least two others of Council), observing that the President is to take the lead whenever he sees it necessary,<sup>26</sup> and all application to or disputes with the Country [civ] Powers are to pass through his authority alone. Regular books are to be kept, and heads opened for the different pergunnahs; these transactions to be introduced upon the General Books under the head of *Rents and Revenues of the New Lands*; regular diaries to be kept of their transactions, entering all the observations, and necessary remarks; the whole to be transmitted to us annually. It will be necessary that you appoint a covenanted servant as Secretary and Accomptant to this Committee.

"97. Their monthly and quarterly accounts are to be delivered to the Committee of Accounts with their diary to be inspected and supervised, who are to certify their opinion. Such accounts are then to be laid before the Board; and, when approved and passed in Council; they are to be delivered to the Accountant, who must then, and not before, bring them upon the General Books. This Regulation will not affect the Collector of Rents and Revenues, who must still have under his charge (unless you have objections) the same confined districts that were under our zemindar<sup>27</sup> before the loss of Calcutta.

"98. You are certainly right to order an exact measurement of all our new acquired lands, but we hope by more than one person and at no great expence. Such persons, if they have judgment, may from their observation of the different grounds, be able to furnish you with many beneficial hints; and, if they strike out new advantages, we shall not be unmindful of their merit. Sensible and judicious is your conduct in pursuing lenitive measures and easing the tenants of real oppressions and burthensome taxes. By adopting these salutary maxims, our acquisitions and Calcutta also, will in time be filled with numerous and useful subjects, attached to our Government, from interest or

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26. In their General Letter of 13th March, 1761, the Court of Directors order that the President be always head of the Committee of Lands, and they grant him  $2\frac{1}{2}$  per cent of the revenues collected as "consulage or commission." It is worth noticing that in 1766 the Court of Directors (General Letter to Bengal, 17th May, para. 17) wrote:—"We observe that when we first took possession of the grant from Jaffier Ally Cawn, of the Calcutta lands, we immediately turned out all those who stood between the Government and the cultivators, and put the firm of the lands up to public sale, in which we make no doubt our servants acted for our interest, according to the best of their judgment; but it appears to have been deemed by the natives an act of oppression, and contrary to the customs of Hindustan. However it was then a partial evil, confined to a small tract of country, and the Company had this to plead in their defence, that their whole territory, lying near to Calcutta, could easily be kept under the general administration of the Presidency, and this might be very justifiable and very proper for so limited an object." Verelst: *View, etc.*, Appendix, p. 137.

27. *i. e.*, the Collector of Calcutta.

affection, and the English name be as much revered and respected as it has of late years been deservedly despised and detested, and to our late President, Colonel Clive, we chiefly ascribe this merit. Mr. Vansittart receives a particular mark of our confidence, etc., etc.

"99. The pergunnahs of Corry Jurie<sup>28</sup> that yielded formerly forty lacks and now only 2,925 Rupees we agree is a most striking instance of Government oppressions, or such vast tracts of country could not have become a desert ; and we remark with pleasure that you are determined to give suitable attention to this important branch of our acquisitions, to render this country habitable, and to people it are your great objects. . . . [ cv ] "138. Before your letters reach'd us, we had finished our contracts for silver for this season ; and therefore, had we been inclined, it was not in our power to have furnished you with any quantity, but you amaze us in saying that your treasure will be exhausted in the year 1760 with supplies to Fort St. George, and your subordinates, completing the citadel and the necessary expences of the Settlement. This is really at present past our power to comprehend, and should it prove a truth, your great and dazzling acquisitions will be the ruin of this Company, for it's a striking fact, that altho' we have benefitted upwards of a million sterling by the late treaty, yet not a single shilling of this immense sum has gone in aid to our returns, and by our representation the whole will be bury'd in your citadel".

In reply to these instructions the President and Council, 16th January, 1761, wrote :

"107. The gathering in the Revenues was lodged in the hands of one of the members of your Council, under the title of Collector, who has regularly accounted for all the rents and revenue whilst that method subsisted ; and, since the receipt of your commands of this season, dated the 1st April, we have, according to the regulations contained in the 96th and 97th paragraphs, formed a Committee of New Lands consisting of three Members of the Board and two Junior servants, with an Accomptant and Secretary, for the greater regularity in carrying on the business of their office. They will keep separate books and annually transmit you their proceedings".<sup>29</sup>

The correspondence between the Governor and Council and the Court shows that the Committee of the New Lands met once in each week. In order to obtain a personal familiarity with the circumstances of each individual parganah, the management formerly in the hands of the Collector, was divided between the members of the Committee. On the 8th April, 1762, the President and Council write to the Court :

28. "The extent of the pergunnah of Corry Jurie is unknown ; it reaches as far as Gunga Saugor to the south, and the Sunderbunds to the east ; the revenue it formerly yielded, we are informed on good authority, amounted to 40 lacks of rupees, but the greatest part of this pergunnah is new uncultivated, uninhabited, and overgrown with jungle. The rents of it amount to no more than Rs. 2,925-9-0, and we pay the Nawab only Rs. 562-8-0." Clive : *Proceedings*, 31st December, 1758.

29. Previous to formation of this Committee, there had been a Committee, appointed 21st September, 1758, for the management of the new lands. Messrs. Watts, Frankland and Scrafton served on this first Committee. See *IVth Report of the Committee of Secrecy*, 1773.

"9. The leases of the Calcutta pergunnahs expiring the first of next month, excepting that of Magurah, the Committee of New Lands have met very frequently to consider of the proper method of disposing of them to the Company's best advantage with a view at the same [time] to their further improvement. Plans are prepared for dividing each pergunnah into smaller parcels, and we are agreed that the leases should be for a longer term to make it worth the farmers' while to be at some expence for improving the ground ; but, on the other hand, we wish to have a more perfect knowledge of the real produce of the lands, that is—what the labourers reap from the [ *cvi* ] grounds as well as what they pay to the farmers, for we don't find the *debundee* or rent roll compiled by Mr. Frankland is at all to be depended on, nor that the farmers have been guided by that in collecting the rents from the inhabitants, although by the terms of the leases, it should have been so. We also wish to have an exact measurement of the whole, and indeed we think both those informations very necessary before we let them on a long lease. We are inclined, therefore, to make a trial to acquire this knowledge by keeping the lands for one year in the Company's hands, and only to let the salt pans, which we have reason to think will become a very considerable separate article of your revenues. Mr. Cameron has made a very compleat survey and plan of the outlines of the whole from Saugur round the Eastern limit till he joined the river at Bankabuzar, which is the northern extent of your possession. He will proceed again with all expedition to make an inside survey and measurement of each pergunnah, which will give us a compleat knowledge of the number of acres in the whole and in each pergunnah. In the meantime, we propose that the several members of the Committee of New Lands shall have the care and management of the several pergunnahs in the manner they themselves divided them as in their proceedings of 1761:—that they shall register the number of parishes in each pergunnah, the number of villages in each parish, and the number and names of the inhabitants (and) landholders in each village, with the quantity of ground held by each, the nature and produce of it and the yearly rent it has heretofore been rated at, —and that for the present they shall collect the same rents as were collected by the farmers until we can form a judgment from the registers and measurement how far they may be increased".

The General Letter from Bengal to the Court of 30th October, 1762, shows that the proposal to keep the parganahs in the Company's hands for a year was adopted. This fact would suggest that the Committee of Lands had found cause to call in question Holwell's belief that the putting up of the revenues to farm afforded the simplest means of ascertaining the value of the farms. This belief was based on the assumption that no rational person would commit himself to an obligation to pay a lump-sum in composition for the revenues, unless he could see his way clear to realizing the amount and a certain margin as his own profit from the cultivators. Whatever abstract arguments might be advanced in favour of this view, in practice it was found that the bids for revenue farms made at public auctions, were, as a rule, of a wildly speculative character. If the farm was to last for the three years, in the first year the farmer would rent-rack the cultivators ;



and, if he found he could neither make a profit for himself or discharge his obligations, he would in all probability abscond; in the second year if he remained he would fall into arrears, and in the third, knowing the remainder of his time to be short, he would be grossly negligent. As the revenue farmer was seldom of the soil race, but a mere stranger in the districts, [ cvii ] there were no ties of local interests to link him with the ryots, and the term of his office was far too short to allow for the growth of confidence. The temptation to make undue profits, if profits proved possible, or else either to abscond or become fraudulently bankrupt, had not been duly considered when it was maintained as plain commonsense that no man would involve himself in obligations to pay a lump-sum if the lands or customs would not produce such a lump-sum and an ample profit for the collector into the bargain. The speculative nature of the bidding excluded the possibility of deriving from the offers made at the auction any just estimate of the value of the lands or the customs.

In 1767 a number of natives offered for the farm of the Twentyfour Parganahs the sum of Rs. 10,00,001, but "the President continuing firm in his opinion that the lands are worth more than the sum offered, the Council judged it "more conducive to the Company's interest to continue the collections in their own hands, under the direction of the Collector General till such a time as the real value of the lands are exactly ascertained".<sup>30</sup> The President at this date was Lord Clive and his opinion will be read with a special interest :

"With regard to the Company's own, or Calcutta lands, I have but too much reason to believe that great injustice has been done to the Company in the collection of those revenues. The Select Committee had in consideration a thorough enquiry into their nature and value, but could not obtain the necessary insight, nor detect the frauds committed, until the expiration of the term for which the lands were rented to the late farmers, which was on the 1st November last. These lands now come under the department of this Board, and your utmost endeavours will not, I trust be wanting to ascertain their real value. If the gentlemen who formerly parcelled out the pergunnahs amongst themselves did not acquire large advantages, it is certain that the servants acting under them did; for I am well informed that the banians of those gentlemen, as well as others, hold lands at the rate of 8 to 12 annas per Beegah while other tenants pay from Rs. 2-4 to Rs. 2-12. From the best information I can get, I find that the Calcutta lands may in a short time be capable of yielding to the Company between fourteen and fifteen lakhs of rupees per annum. Should that be the case, how reprehensible is the conduct of those gentlemen who so shamefully neglected the interest of their employers."<sup>31</sup>

30. Long : *Selections*, No. 912.

31. Long : *Selections*, No. 941. See Grant : "*Analysis*" in *5th Report*. Grant describes Verelst's report of 1767 as "the completest and most authentic hustabod investigation ever executed in Bengal."

This statement was made by Clive on 19th January, 1767, and he was, in all probability, relying on the researches of Verelst,<sup>32</sup> who contributes to the Proceedings of the Select Committee, 29th April, a minute of great importance on the subject of the Calcutta lands :

[ cviii ] “By the several accounts taken at different times of the measurement of the Twenty-four-Pergunnahs, it appears that the whole of the lands amounts to 10,82,543 beegahs 15 cottahs of ground, which has been cultivated but on account of Charity lands pretended to be deserted, and others again secreted, not above two-thirds of this measurement have actually paid rents to the Company. A research into the cause of this deficiency, being well convinced that instead of a decrease there has been a considerable increase of inhabitants on the Company’s lands, is what has particularly engaged my time and attention.

“On an examination of the Charity Lands, it appears that when the Company received charge of these pergunnahs, the total of the lands assigned for this purpose (an account of which was delivered in by the zemindars themselves)—

	B.	C.	G.
Amounted to ... ..	2,17,442	19	8
Since which there has been resumed ... ..	14,971	1	0
So that the total of charity land would stand at ... ..	2,02,471	18	8

instead of which it has by some means, probably by the villany of the black servants in office, increased since that time to no less than Beegahs 2,63,702-2-8, by which the Company has been deprived of the annual rent of Beegahs 61,220-4-8, most, if not all, of which has most probably been disposed of amongst the black servants in office, or their dependants.

“In the account of these lands, it is said that Beegahs 25,679-13 have been lying uncultivated for a considerable time. As they were originally designed for and appropriated to the immediate maintenance and support of poor people, or to religious purposes, they could be of use only while they were cultivated, and ought immediately as they became neglected by the people who had charge of them, to have been resumed according to the custom of the country, by the Company. I judge a considerable addition might be made to the revenues by obliging every person to produce the sunnud by which he is entitled to hold these lands. The amount of the lands allotted to the above charitable purposes, after resuming the Beegahs 61,220-4-8, I think is very considerable, for estimating the Beegahs 2,02,401-18-8<sup>34</sup> at the medium rent of the other lands, the annual revenue will be no less than Rs. 3,14,638.

“The amount of ryotty lands, or those which are farmed out, appears in the cutcherry books to be Beegahs 5,91,172-9, [ cix ] producing an annual revenue of Rs. 10,12,305-12 ;

32. See India Office Records Department, Home—Miscellaneous, 737.

33. It will be observed that there is an error in substraction, but the figures are given as in Long’s *Selections*.

34. Thus in Long.

there have, moreover, stood under this head Beegahs 29,363-3-12 said to be uncultivated, but from the several examinations made therein, I am of opinion that it is mostly cultivated, and ought to be brought to the immediate credit of the revenue. It also appears that the lands held by the servants in office and their dependants have been estimated at less rent than they should have been by Beegahs 15,877-5-13, which will likewise be brought to account, as I see no necessity for douceurs where every man employed by the Company receives his monthly allowance, nor can I trace by what authority they held them at the low rate they have hitherto done.

"Under the head of *commar*,<sup>35</sup> or lands cultivated by contract, there appears to be Beegahs 1,98,305-19-12. The amounts of these lands must ever be uncertain, as the rents being paid in the products of the land, their value depends wholly on the sale of such products. However estimating them on a medium by what they have hitherto yielded, their rents will amount to Rs. 2,91,842-10-11.

"These together with the *batta*<sup>36</sup> of rupees, *buzzy Jumma*<sup>37</sup> or collections made in the *pergunnah* cutcherries, *salamies*<sup>38</sup> on the weddings and visitation of the *dees*, called *diderry*,<sup>39</sup> farms of *tuffauls*,<sup>40</sup> salt and wax duties collected in the markets and *ghauts*, interest on money advanced for cultivation, repairs of dykes and bridges, rents of the *collarys*,<sup>41</sup> the 15 *dees*, etc., of Calcutta town, are none of them included in the estimation I have laid before you. They also require a particular scrutiny, as well as the expences attending the collections; and I am perfectly sensible that many lands are still held at a low unequitable rent, though the intricacies and delays attending these matters having prevented my finding them out.

"As it will be impossible to fix the just value of the lands until their measurement and products can be ascertained, I would recommend that as many capable surveyors as could be procured should be employed on this business. They should be directed to form a register of all the *ryots*; the quantity of land each holds and the usual products, when each *ryot* might have inserted in his *potta* the measurement of his lands and [cx]the annual or monthly rents he is to pay; this will prevent the impositions of the black servants, or if you farm the lands, any oppressions of the farmers.

H. VERELST."<sup>42</sup>

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35. *Commar*, correctly *Khamar*.

36. *Batta*. Exchange charges on various kinds of the rupees. The word is also used to mean sustenance allowance granted to the troops.

37. *Bazzy Jumma*. *Bazy-jumma*, i.e., lands held on various tenures, but exempt from revenue.

38. *Salamies*. *Salami*—a gift by way of compliment, or in return for favour.

39. *Diderry*—*dihdari* ( *dih*=village ).

40. *Tuffauls*. Verelst defines a *tuffaul* as "collection of callarrys, or salt pans."

41. *Callarys*. *Khalari*—places in which salt is made,

42. Long: *Selections*, No. 946. Verelst, the grandson of Cornelius Verelst, the noted flower-painter "arrived" in Bengal on 16th July, 1749, was second of Council at *Jugdā* in 1757 and Sub-Secretary at Fort William in 1757. In 1760 he was sent to Chittagong as Chief. In 1762 ( 11th March ), his name

Through the transactions recorded in the present chapter, the English Government professed a lively interest in the welfare of the cultivators. This has been instanced in the Rules for farming lands published on 21st May, 1759—a document which has been quoted. The Collector's orders of 1767 direct the native officials : "the article of increase in the Hustabood you are to make a strict enquiry into, and what can be collected without injury to the ryots you are to collect and forward to me, and you are to be very particular in giving to me an account of the state of your pergunnah ; what improvements it will admit of, and what further benefits can accrue to the Company without laying the ryots under any hardships, it being the Company's intention that they should enjoy ease and comfort".<sup>43</sup>

Of the persons described as zamindars, the English at this time entertained grave apprehensions. The Council write to the Court, 8th September 1760 :

"Without the greatest care being taken to prevent zemindars from carrying on long balances and defrauding the Government under various pretences, your collections would soon dwindle to a sum insufficient to defray their own charges, the authority of the administration would be despised, and the several rajahs and zemindars would assume to themselves an independent power, after they had fleeced the people and fattened upon the spoils of the public".<sup>44</sup>

In 1767 the Board took into consideration a joint proposal made by Raja Nubkissen and a member of the Ghosal family, to farm the Calcutta towns for three years at thirteen lakhs per annum. This offer the Board rejected on the ground that "Nubkissen's present situation gives him so great an influence in the country that the ryots might be alarmed and apprehensive of oppression,"<sup>45</sup>

The "nett revenue clear of all charges" derived by the English from the Calcutta lands, including the older zamindari of the Three Towns, is indicated by the following figures, supplied by Verelst.<sup>46</sup>

[ cxl ] May to the end of April.		Cur. Rupees.
1760-61	Cash received.	730,591
1761-62	do.	597,355
1762-63	do.	486,352
1763-64	do.	740,473
1764-65	do.	979,349
1765-66	do.	602,459
1766-67	do.	801,571
1767-68	do.	1,116,396
1768-69	do.	1,030,464
1769-70	do.	1,022,845

appears as the last of the signatures of a protest against Vansittart's policy. In 1763 he attempted an expedition to Manipur, but got no further than Khaspur in Kachar. In 1765 he came to Calcutta and was a member of the Select Committee. In the same year he was appointed Supravisor of Burdwan and in the following year of Midnapur. His inquiries into the Calcutta lands commenced towards the end of 1766.

43. Long : *Selections*, No. 957.

44. Long : No. 885.

45. *Ibid*, No. 951.

46. Verelst : *View, etc.*, p. 73. Compare *Fourth Report of the Committee of Secrecy*, 1773.

Verelst explains that the apparent variation during the years 1760-1766 was owing to the irregular payments of the sum of Sa. Rs. 2,12,332 which was due first to the Nawab and latterly, as will be explained, to Lord Clive, "the revenues themselves having undergone no great alteration". The marked increase of the three last years must be regarded as the result of Verelst's organization of the revenues in 1766.

Before concluding it will be necessary to say a few words on the subject of Lord Clive's Jagir. <sup>47</sup> On his creation as an Omrah of the Empire, Clive had expected that the usual jagir, or assignment of the revenues of a selected district, would be granted him for the support of his newly acquired dignity, and early in 1759 he wrote to the Seths, the great Murshidabad bankers, a letter in which he expressed his disappointment and asked them to use their influence to procure a jagir for him. On the 20th February the Seths replied that they had made an application to the Nawab, who, however, would not grant one in Bengal, or in Orissa, "which is very poor", but in Bihar. <sup>48</sup>

In the same year, 1759, Prince Mahomed Ali Gohur (afterwards Emperor Shah Alam) with the design of supplanting Mir Jafar in his government, entered Behar, at the head of an army, which at one time was supposed to number 40,000 men. The Prince at once sought to induce Clive to desert Mir Jafar, but, so far from wavering in his alliance, Clive gathered together a force of 500 Europeans and 2,500 [ *cxii* ] sepoys and set out for Patna. Having relieved that citadel, Clive returned to Murshidabad, where the Nawab Mir Jafar, either out of gratitude, or as a means for securing or confirming Clive's fidelity, bestowed upon him the jagir of the lands known as the Twenty-four Parganahs. It has been seen that when those parganahs were entrusted as a zamindari to the Company, the revenue to be paid annually into the Nawab's Treasury, by the Company, was fixed by the *sanad* at Rs. 2,22,958-10-2-3. The effect of Clive's acquisition of the jagir was that the Company's fixed revenue quota, instead of being payable to the Nawab's Treasury became payable

47, *Jagir* (jai—place, gir—taking). The Commissioners appointed in 1776 by Hastings to report on the land revenues, divide jagirs into two kinds:

1. Assignments of particular lands in order to defray State expenses, e.g., the fleet at Dacca.
2. Assignments for the support of individuals—  
Altamgha—hereditary and unconditional.  
Zati—"Zatee," personal and for a single life.  
Mashrut—"Mushroot," conditional on the performance of specified services.

Harington: *Elementary Analysis*, Vol. ii., p. 66. See also an article by W. Irvine: *Journal, Royal Asiatic Society*, 1896, pp. 520-21.

48. *Calendar of Persian Correspondence*, Calcutta, 1911, No. 48. See also Auber: *Rise and Progress of the British Power in India*, 1837, Vol. i., p. 75, and *A letter to the Proprietors of the East India Stock from Lord Clive to which are added the opinions of the Hon. Charles York and Sir Fletcher Norton on his Lordship's Jaghire*, London, 1764 (Reprinted 1764), and *The Opinions of Mr. James Eyre, Mr. Edward Haskins, Mr. E. Thurlow and Mr. John Dunning on the subject of Lord Clive's Jaghire; to which are added his Lordship's letter, etc.*, London, (No date). For the *Sanad*, etc., connected with the Jagir see Aitchison: *Treaties, etc.*, Vol. i, Appendix.

to Lord Clive. When the Company in England, at a later time, chose to quarrel with Clive, they raised the question of the legality of this transaction ; but it must have been obvious to any disinterested person that Mir Jafar's right to bestow the jagir on Clive stood on precisely the same ground as his right to bestow the zamindari on the Company. It has been said that "Clive was man of the world enough to know that his position as at once servant and landlord of the Company was an impossible one",<sup>49</sup> but it does not appear that Clive was ever conscious of standing in this double position. The criticism seems to be based on a misunderstanding, for what Clive received was not a "quit-rent" on lands let to the Company, but an assignment of the revenues. Had the Company, as the result of some political misunderstanding, determined to withhold the payment of the revenues due from them, Clive would have been simply a sufferer without means of securing redress. To suggest that as jagirdar he could have deprived the English of their zamindari, or treated them as a landlord might treat tenants at will, is to misunderstand what is meant by the term jagir. By a *sanad* from the Nawab, dated 23rd June, 1765, and a *farman* from the Emperor of the same date, the jagir was confirmed to Clive for ten years from the 10th May, 1764 ; after the expiration of this term, or on Clive's death if occurring within it, the jagir was to vest in the Company as an *altamgha*<sup>50</sup> or unconditional and perpetual gift.

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49. *Cambridge Modern History*, vol. vi, page 557.

50. *Altamgha*—a royal gift, "so called from two Turkish words signifying *red* and *seal*, such grants having been formerly sealed with a red seal."—*Field*.

## CHAPTER VII.

### THE CEDED LANDS

[cxlii] Mir Jafar by his first treaty with the English, in addition to the promise of an extension of the Company's Calcutta lands, had offered compensation to the extent of Rs. 1,77,00,000 to those whose property had suffered in the siege of Calcutta. In addition to the obligations entered upon in the treaty, the new Nawab had pledged himself to a donation of £ 600,000 to the army and the navy and payments to various English officials amounting to Rs. 53,90,000. During the first period of his rule, he managed to pay a large portion of the restitution money and also of the donation to the army, but his own financial position became troubled, and the pay of his own army fell into arrear. He was soon driven to the necessity of pledging his jewels to the Company's Government at Calcutta, and in 1758 was compelled to offer portions of the revenues of Burdwan and Nadia as "tuncaws" (*tankhwahs*) or assignments for the realisation of his dues. <sup>1</sup>

Before the English Government actually broke with Mir Jafar, and entered into negotiations with Mir Kasim, Governor Vansittart went so far as to ask for a donation to the Company of the faujdari (military district) of Sylhet and the province of Chittagong; but Mir Jafar respectfully declined to part with these lands. <sup>2</sup>

It cannot be doubted that Holwell, and in turn Vansittart, honestly believed that the Nawab, whom the English had enthroned after Plassey, was a person in whom no confidence could be placed. They held that he was not only incompetent, but also treacherous, and they had some reason to believe that while by public profession he was their ally, he had been guilty of intrigues with their enemies the Dutch, and with

1. *Third Report of the Select Committee*, 1773, p. 311. In July 1758, Luke Scrafton, the Agent at the Murshidabad Durbar, writes : "As soon as the pooneah is passed, the Raja of Burdwan will pass a writing fixing the dates on which he will make the several payments for next year ; when this is settled, permit me to recommend it to your Honour, etc., to order the revenue to be paid in Calcutta, and whenever he is a few days beyond his agreement, to march a company of sepoys into his country, and when once he is thoroughly intimidated, he will be very regular in his payments. It will be necessary to look on the province as the Hon'ble Company's for these two years, and not to permit the Government (i.e., the Nawab) to interfere in any but Phousdary affairs till the Company's tuncaws are paid." Long : *Op. cit.*, p 147. Scrafton suggested that the Raja of Nadia ought to be threatened "with loss of caste and such corporal punishments as are in practice among these people." *Ibid.* No. 357, *Tan* literally 'body' : *khwah* "need," hence *tankhwah*. See Irvine : *Journal of the Royal Asiatic Society*, 1896, Article : "The Army of the Indian Moghuls. "

2. *Calendar of Persian Correspondence*, Imperial Record Department, Vol. i, No. 386. See Long : *Selections*, No. 391.

the Mughal prince, Ali Gohur.<sup>3</sup> Moreover, until [ cxiv ] 1765, when Clive returned to Bengal, it was believed that Mir Jafar had been responsible for the murder of the harmless members of Ali Verdi's family.<sup>4</sup> It was resolved, therefore, that Mir Jafar should be deposed, and that Mir Kasim should take the old Nawab's place on the *musnud*. It was agreed with the latter (September 27th, 1760) :

"For all charges of the Company and of the said army and provisions for the field, etc., the lands of Burdwan, Midnapore, and Chittagong, shall be written and granted. The Company is to stand all losses, and receive all profits of these countries, and we will demand no more than the assignment aforesaid."<sup>5</sup>

On October 27th, 1760, quietly and without the least disturbance, Mir Kasim Khan was placed on the *musnud*. On 8th January, 1761, Amyatt caused a minute to be entered on the proceedings of the Select Committee, in which in the strongest terms ("breach of faith", "odium", "assisted to dethrone a man whom we were bound to support by the most solemnities divine and human", etc.) expressed, on behalf of himself and two other members, an entire disapprobation of the late revolution.<sup>6</sup>

At its start the Government of Mir Kasim Khan was full of bright promise. Within a short time the new Nawab was able to pay so large a sum to his English creditors that the Government at Fort William were enabled to remit two and a half lakhs of rupees to Madras—a sum which arrived at the latter place "very opportunely for the service of the Army before Pondicherry". In fact, however, Mir Kasim was straining the resources of the revenues to an impossible degree of tension; and it is probable that from the very first moment of his elevation to the *musnud* his attention was fixed on procuring the means to drive the English out of Bengal. Although made Nawab by the English Governor, Mir Kasim knew very well, that among the members of the Council at Fort William he had mortal foes, and possibly no friend save Warren Hastings. It was, as Verelst afterwards expressed it, "impossible that Mir Cassim should rest the foundation of his government upon our support."<sup>7</sup> Realising that, in course of time, there must be war to the death, the Nawab set himself to husband his resources and to increase the rigour of the revenue system.<sup>8</sup>

3. *Vide Vansittart : A Narrative of the Transactions of the English in Bengal* (1766); Scrafton : *Observations on Mr. Vansittart's Narrative* (1767); Holwell : *An Address from J. Z. Holwell Esq. to Luke Scrafton* (1776).

4. "In justice to the memory of the late Nabob Meer Jaffier, we think it incumbent on us to acquaint you that the horrible massacres wherewith he is charged by Mr. Holwell in his *Address to the Proprietors of the East India Stock* (page 46) are aspersions on the character of that Prince, which have not the least foundation in truth. The several persons thus affirmed and who were generally thought to have been murdered by his order, are all now living except two, who were put to death by Meeran without the Nabob's consent or knowledge." Letter of Clive and the Select Committee, Sept. 30th 1765.

5. Aitchison : *Collection of Treaties etc.* vol. I, p. 215.

6. Firminger : *Diaries of Three Surgeons of Patna* (1909) p. 5. Amyatt, whom Verelst regarded as setting an example of personal moderation, was murdered by Kasim Khan's officers in 1763.

7. Verelst : *View etc.* p. 47.

8. Francis (*Minutes, etc.* p. 23) writes of Mir Kasim : "His principle is said to have been the



[cxv] Clive and his Secret Committee, in a letter dated January 24th, 1767, describe the paramount cause of the Company's troubles in the days of Mir Kasim's rule. "We," they wrote to the Court of Directors, "now come to your instructions relative to the inland trade, which you very justly consider as the foundation of all the bloodshed, massacres, and confusion, which have happened of late years in Bengal."<sup>9</sup> The inland trade referred to here is defined by Vansittart as "trade carried on by private persons, on their own credit and bottom, in commodities produced in the country, and again sold in the same country. . . . The private trade consists of goods not fit for exportation, but which are again sold in the country; or it consists of articles which are funds appropriated, and paid into the exchequer of the country (i. e., the Nawab's) government."<sup>10</sup> With this inland trade the East India Company had no direct concern, and not one of the charters of privileges secured by the Company could possibly be held to confer on the Company's servants, as private merchants trading on their own behalf, the free trade privileges which had been secured for the export or import of goods of the public company. Vansittart very forcibly observes: "It never could be intended by the Mogul King that private foreign merchants should be upon a better footing than private native merchants. If any set of foreign merchants could deal in all goods produced in the country, and sold in any part of the same country, free from all duties, while at the same time all duties were paid by the natives, the foreigners must, in consequence, keep the whole trade to themselves, and also the Government of the country must lose the whole of the duties."

Luke Scrafton, who had had a hand in the trick by which Clive duped Omichund (Amirchand), and who had been posted at Murshidabad as Resident after Plassey, writes in his *Observations on Mr. Vansittart's Narrative* :

"The general idea at this time entertained by the Servants of the Company was that the battle of Plassey did only restore us to the same situation we were in before the capture of Calcutta; the Subah was conceived to be as independent as ever, and the

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whatever the ryots paid should be the property of government, thereby totally excluding the zemindars. His officers acted accordingly. Their fear of him was so great, both from his skill in accounts and the rigour of his government, that his orders were punctually obeyed; so that partly from the direct produce of the lands, and partly by fines and confiscations, it is believed that for two years, he drew almost double the ancient revenue from the country. His short administration may rather be deemed a regular pillage, than a system of government." In the *IVth Report of the Committee of Secrecy, 1773* (p. 3,) it is stated that in 1760 Mir Kasim "laid an additional tax of  $1\frac{1}{2}$  annas or  $\frac{3}{32}$  parts of the original crown rents; and estimated this addition at Sicca Rupees 4,50,164-2-0, which being added to the former revenue of 1,32,82,960-2-17-1, made the whole of these revenues in his time amount to 1,37,33,124-5-6-1 or £1,792,172 sterling." In arriving at this last sum it seems to have been forgotten that if in the time of Ali Verdi Khan, Rs. 1,32,82,960-2-17-1 was the total revenue, when Mir Kasim came to the *musnud* the revenues of Chittagong, Midnapore, and Burdwan were assigned to the English, and that therefore Mir Kasim's increase cannot be simply added to Ali Verdi Khan's revenue in order to discover the former's total revenue.

9. Verelst: *View, etc.*, Appendix, p. 44.

10. Vansittart: *Original Papers*, Vol. I, p. xxvii.

English returned into their commercial character, with no [cxvi] other alteration in their situation than a full indemnification for their losses, and a small acquisition of territory, which it was thought might defray the military expences of their garrisons, grown too burdensome to be supported by their trade alone ; if the forces were to take the field in support of the Subah, it was to be at his expence."

This passage no doubt represents the *theory* arrived at of the Company's position in regard to the Nawab, but it completely misrepresents the actual situation. In the full confidence of the English power, of which the event of Plassey was eloquent, the majority of the Company's servants, from the Governor down to the youngest of the juniors,<sup>11</sup> had become merchants on a large scale, sometimes even forming companies for trade with one another, and employing European agents in frontier districts which, but a few years before, had been traced on no published map.<sup>12</sup> In April, 1762, Warren Hastings, then a member of the Council, wrote :

"The oppression committed under the sanction of the English name, and through want of spirit in the Nabob's subjects to oppose them ... This evil, I am well assured is practised all over the country by people falsely assuming the habits of our sepoys or calling themselves our gomastahs ... I have been surprised to meet with several English flags flying in places which I have passed on the river. I do not believe that I passed a boat without one. By whatever title they have been assumed (for I could only trust to the information of my eyes, without stopping to ask questions), I am sure their frequency can bode no good to the Nabob's revenues, the quiet of the country, or the honour of our nation, but evidently tend to lessen each of them ... You are sensible, Sir, that it is from such little irregularities, too trivial perhaps for publick complaint, and continually repeated, that the country people are habituated to entertain the most unfavourable notions of our government, and by them the English credit suffers much more than by matters which are made of greater consequence in the debates between the Nabob and us."<sup>13</sup>

With a view to coming to an agreement on the vexed subject of the inland trade, Vansittart, accompanied by Hastings, visited the Nawab at Murshidabad in October, 1762. A very reasonable plan was discussed, and agreed to ; but the Council at Calcutta were [cxvii] anxious to challenge the validity of the Governor's proceedings, and Mir Kasim was soon given to understand that he was dealing, not with Clive, but

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11. William Bolts is the person whose history would most amply illustrate this period. Expelled from India, he ultimately joined the Austrian Company. The letter-books of Richard Barwell, now in possession of the Calcutta Historical Society, show how Barwell built up for himself an enormous fortune by trade of all kinds, and was thereby enabled to secure his advancement by bribes lavishly scattered on influential people in England. Vansittart's private trade formed a cause of real embarrassment to him when this matter of the inland trade became a burning topic of politics.

12. See, for instance, the map included in Bartholomew Plaisted's *Journey from Calcutta by Sea to Busserah, and from thence across the Great Desert in 1750*. London, 1757. This map is reproduced in *Bengal : Past and Present*, Vol. iv.

13. Vansittart: *A Narrative of the Transactions in Bengal*, vol. II, pp. 80-81.

with Vansittart. The growing fury of the Nawab increased as he came to realise that without the consent of a Council, which detested him, the offers of the Governor were valueless. In one letter he writes to Vansittart of "your servants and men of low character," in another "I have no resource but to make use, as you do, of expressions tending to dissolve our friendship." In the sequel, Mir Kasim stole a page from the *Arabian Nights* in which a faithful maid, instead of wiping the chalk off her master's door, chalks all the other doors. Called upon to remit the duties on the private English trade, Mir Kasim remitted all duties, for Europeans and Natives alike, for the space of two years. The news of this act, received by the Council at Fort William with amazement and indignation, was soon followed by reports of open violence from Gaya, and information that the Deputy at Dacca had completely stopped the transit of English goods through his district. Instead of at once declaring war, the Council determined to send Messrs. Amyatt and Hay on deputation to the Nawab. These gentlemen were murdered, and the bloody series of events commenced which culminated in the massacre of the English at Patna—crime perpetrated in cold blood : horrors, eclipses that of the Black Hole, of which Macaulay wrote. "Nothing in history or fiction, not even the story which Ugolino told of the sea of everlasting ice, after he had wiped his bloody lips on the scalp of his murderer, approaches the horrors which were recounted by the few survivors of that night."

Deplorable as is the chronicle of Vansittart's governorship, the period is not without a real importance, and that importance is best estimated by comparison of a map executed in Bengal previous to Plassey, with a map prepared in Vansittart's time. The rush of English traders through the province brought Bengal to the knowledge, and within the operations, of a civilisation which gradually emerged from the disorders in which it had its first rough beginnings. It may be said with confidence that the period of British rule in Bengal, which is marked by the governorship of Vansittart and Verelst, deserves an attention which it has not as yet received at the hands of historians, who, almost to a man, have been content to leave these years a mere gap covered over with some such phrases as "the lowest pitch in Anglo-Indian history," "the only period which throws grave and unpardonable discredit on the English name," etc. Vansittart's initial error was due to the policy of changing Mir Jafar for another—a policy he had inherited from the amiable but none too competent Holwell. His translation from Madras to Calcutta had awakened personal jealousies among the Bengal servants, and the breach of faith with Mir Jafar, to whom allowance for an almost impossible position was not granted, and the subsequent betrayal of Ram Narayan substituted a moral cleavage for a personal one. Compelled by his lofty situation to play the part of political purist, as a private trader and above all, as one whom the Revolution had enriched, Vansittart could not appear as a model of consistency.<sup>14</sup> His abilities would no [cxviii] doubt have made him a highly successful colonial Governor in our own day ; but in the Bengal of those times the strong, and perhaps even the brutal, methods of Lord Clive were necessary to secure order at the Council Board, and subordination in the public service.

14. Elphinstone : *Rise of the British Power in India*, p. 383.

War having been declared with Mir Kasim, Mir Jafar was once again proclaimed Nawab. In the agreement of July 6th, 1763, the restored Subah, undertook "to confirm to the Company the cession of the provinces of Burdwan, Midnapore, and Chittagong, made by Meer Cassim, either by Jagheere, Sunnuds, or such deeds as may secure the property of them, in the strongest manner, to the Company."<sup>15</sup> Had the Nawab, on the basis of this obligation, created the three ceded districts English zamindaris, their history would, for a few years at least to come, have been somewhat different from what it actually was. The formal treaty, however, on July 10th, 1763, ran :

"I do grant and confirm to the Company, for defraying the expences of their troops, the Chucklas of Burdwan, Midnapore, and Chittagong, which were before ceded for the same purpose."<sup>16</sup>

Lord Macaulay, in his *Essay on Warren Hastings*, has said that up to 1772, "the only branch of politics about which the English functionaries busied themselves was negotiation with the native princes. The police, the administration of justice, the maintenance of order, were left to this high functionary," i.e., the native Naib Diwan of Murshidabad. The authority of Mr. Westland, as that of a professional revenue servant and an antiquarian of established repute in Bengal, is in this matter even greater than that of Lord Macaulay. "I am aware," writes Mr. Westland, "that direct government is usually dated from 1772, but what the English did before 1781 can hardly be dignified by the name of internal administration."<sup>17</sup> Mr. Baden-Powell writes in one place of his *Short Account of the Land Revenue and its Administration in British India*,<sup>18</sup> "1765-1772 (when British rule began) : " in another "when the province of 'Bengal, Bihar, and Orissa' was granted to the English Company in 1765, at first no attempt was made to conduct the administration by British officers."<sup>19</sup> The tendency has thus been to ignore completely [ cxix ] the Ceded Districts, which in 1765, together with the Calcutta lands yielded a very considerable proportion of the total revenues of Bengal. It has been usual

15. Verelst : *View, etc.*, Appendix, p. 158. 16. Aitchison : *Op. cit.*, vol. I. p. 218.

17. Westland : *Report on the District of Jessore*, 2nd edn., p. 54. Mr. Westland's Report is a most valuable work based on the Collectorate records of Jessore. Unfortunately the records actually preserved at Jessore only begin with the correspondence of a Mr. Henckel who was appointed Judge and Magistrate at Moorley in 1781. Mr. Westland apparently had no knowledge of the correspondence of Robert Wilmot, who was Supervisor of Jessore in 1769, in which much information about that district is to be found.

18. Second edition, p. 43.

19. *Op. cit.*, p. 155 : In a footnote Mr. Baden-Powell corrects an error "inadvertently left at page 393 of vol. 1" of this *Land Systems of British India*. In the amended passage it is stated quite generally "our direct Revenue control did not begin till 1772." It may be observed that on p. 155 of the smaller work, Baden-Powell speaks as if the District Supervisors became Collectors, before Warren Hastings' time. This is a mistake ; and it is also inaccurate to speak of Hastings as "Governor-General" in 1772. He took office as Governor and President of Fort William on April 13, 1772. The office of "Governor-General" was a creation under the Regulating Act of 1773.

to follow up a criticism of the Company on the score of its delay in taking up the direct administration, by remarks on the subject of the ignorance of its servants of all matters concerning revenue, when at last, in obedience to the command to "stand forth as diwan," they assumed the immediate government of the country. It is indeed true that the English were somewhat slow in "standing forth as diwan" in the lands of "the Diwani portion," but the explanation is supplied by Verelst, who writes that, in 1765, the Council "very wisely determined to assume the slow but certain conviction of experience for their guide, giving their first attention to those provinces, the revenues of which had been subject to the administration of Europeans from the first cession of those lands by Mir Kasim in 1760. The event corresponded to their views. In the year 1769 the condition of these last-named provinces formed so striking a contrast to other parts of Bengal, where the oppression of the ancient government was universally felt, that foreigners as well as natives began earnestly to wish for a more extensive reformation."<sup>20</sup>

Attention must now be devoted to each of the Ceded Districts in turn :

### Chittagong

It has been already mentioned that Chittagong is fallaciously included in the *Ain-i-Akbari* as a portion of the Mughal dominions.<sup>21</sup> A part of the extensive Hindu kingdom of Tipperah, Chittagong seems to have become for a time a possession of the Afghan kings of Bengal. During the struggle between the Mughal power and the Afghan kings, Chittagong was seized by the kings of Arracan in whose hands it remained to the close of the sixteenth century. According to a somewhat questionable tradition, the Magh chief, who held Chittagong on behalf of the Arracanese king, in 1638, visited Dacca, and made over the district to the Governor, Islam Khan, and by this circumstance the name of Islamabad, applied by the Mahomedans to the principal town, is explained. It is certain that in 1666 the Governor Shaistah Khan despatched a fleet and an army, and that Chittagong having then been laid siege to and captured, from that time forward, formed one of the frontiers of the Mughal province of Bengal. Here also the Portuguese had once a settlement ; Chittagong being their *Porto grande*, as Satgaon, a little to the N. W. of Hughli, had been their *Porto piqueno*.<sup>22</sup>

In December, 1760, Chittagong having been ceded to the English Company by the Nawab Mir Kasim, the Council at Fort William [ **cxv** ] appointed Harry Verelst Esq.<sup>23</sup>

20. Verelst : *View etc.*, p. 75.

21. Beames writes : "This Sarkar was not conquered till the reign of Aurangzeb about the year A.D. 1665. The present names of the parganahs, dating from the conquest only, do not in any way correspond with those given in the *Ain*, and to those, like myself, familiar with the district do not recall any of the local names now current." *Journal of the Royal Asiatic Society*, 1896, pp. 134-35.

22. See Caesar Frederick's travels A.D. (1563-81) in Hakluty's *Voyages* (Everyman's Library, vol. iii, pp. 236 & 237. ) *Bengal : Past & Present*, vol. ii, pp. 383-84 and Vol. iii, p. 18.

23. Verelst "arrived" in Bengal on the 16th July, 1749, and in 1756 he was second at the Factory at Jugdea, and from thence joined the refugees at Fulta. Rumbold was in after years Governor of Madras

to be Chief of Chittagong, Messrs. Thomas Rumbold and Randolph Marriott to be members of his Council, Mr. Walter Wilkins to be assistant to the factory, and Gokul Chand Ghosal<sup>24</sup> to be *diwan*. The party, so composed, reported their arrival from Seetacoond on 3rd. January, 1761, and two days after they received formal charge from Muhammad Riza Khan himself. On May 22nd, they write that "after an infinite deal of trouble we have at last got a full and particular statement of the revenues of this province. The villainous intention of those people that had the management of the revenues here before in endeavouring to secrete from us and make as intricate as possible whatever they could, has delayed it (*i. e.* their report) thus long". A letter from Verelst and his Council, dated 16th February, gives an account, designed for transmission to England, of the newly acquired territory :

"The province of Chittagong extends in latitude to the southward of the capital (Islamabad) about fifty miles to a river called Cruz Colly, which extent to the Southward is bounded by the sea. To the Westward, from the said river, is a range of mountains that stretch to the S. E. and E., and divide the Chittagong District from the Kingdom of Arracan ; to the N. E. and N. the mountains still continue, and divide the province from that of Tipperah ; to the N. N. W. and N. W. it is bounded by a river called the Burrah Fenny, which empties itself into the sea, a little below the pass ; from the above river to one that runs by the capital, commonly called the Chittagong river, we judged the coast lay N. W. and S. E., so that to the Westward S. W. the province is terminated by the Bay of Bengal. As near as we can see, the quantity of land cultivated is about 400,000 *connys* ; but a very considerable part of it lays free of rent, having been lands given in charity. The Measure of the *conny* is twelve *nulls*, each *null* eight *covids* (*i. e.* cubits). The soil in general is very fertile, especially in the plains and valleys, but interspersed with sandy hills and some rocky mountains, which are covered with a high wood, and many of them about the boundaries yield variety of good timbers. The land is capable of producing great quantities of wheat and rice, and all other kinds of grain, cotton, wax, oil, timbers of various sorts, and some elephants' teeth. The manufactures at present are but very indifferent, but will admit of great improvement. The government of the Moors, in this as well as in all other [cxxx] parts of the Mogul Empire, has prevented such improvements in the produce, manufactures, and commerce of the province as the country is capable of affording. But as the inhabitants will now be encouraged from that sloth and indolence they have ever been used to, we make no doubt but that in a few years greater advantages than at present can possibly be expected will accrue to the Company ; to promote which (your Honour etc., may depend) will be our chief study".

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and was created a baronet. R. Marriott, who had some success in an expedition to Tipperah, was the first in Council to propose Mir Jafar's restoration. He got into trouble in connection with the mint at Benares, and incurred Lord Olive's wrath. In after years he was Chief at Balasore.

24. For notices of the Ghosal family see Cotton : *Memoirandum on the Revenue History of Chittagong* ; Beveridge : *The District of Bakarganj*.

In this letter, the Chittagong Council report that they have already despatched a letter couched in friendly terms to the Court of Arracan, and they go on to suggest that a *sanad* to enable them to take possession of Tipperah would be "inconsiderable to the Nabob of Muxadavad", the great distance of that province "from the capital having for several years past screened the bad disposition of its inhabitants from paying any revenue worth mentioning". They "had reason to believe" that such an acquisition would "admit of a passage through the mountains of Iconko into Thibet and the Northern part of China".

The Report of 5th June, 1761, gives an account of the history and existing condition of the revenues.

"Boozzoog Oomed Cawn, (*Buzurg Umed Khan*) son of Shaistah Cawn,<sup>25</sup> uncle to Aurangzib, conquered the country from the Muggs [*Maghs*] in 1072 Bengal Era (1665 A. D.). No rents being then collected, the expences for maintaining the province were paid from Dacca; and in this state it remained for many years, until the inhabitants greatly increasing and improving the lands, such cultivations were made over to the Zemindars to support the keeping up of a force for the protection of the country. As they were more capable of doing so, the sums drawn from Dacca on that account became less and less; and, in course of time, the governors here, finding the advantages arising from the lands to be considerably more to the zemindars than what they were originally designed for, instead of allowing them the whole of their lands for the maintenance of their troops, now only granted a part for that purpose, and rents were collected for the remainder, as also from all new inhabitants that in future came to settle in their government."<sup>26</sup>

From the report it appears that Mir Hadi, who was Governor about 1120 B.S. (1713 A.D.), returned the revenues of the Chittagong district to the authorities at Murshidabad as amounting to Rs. 68,422-10-7½, and that this sum was known as the *ausil jama*. In reality the Governor collected Rs. 1,75,458-0-2½.

[ cxxii ] Under a succession of governors increases were levied to the extent that in 46 years, each rupee of the original jama was increased to Rs. 3-13-10½ and the total jama stood at Rs. 3,31,529-1-15. Muhummad Riza Khan, it was said, had actually collected Rs. 3,37,761-1-11½. In addition to the *mahl* or land revenue there were other collections, and the following is perhaps an approximately correct account of the existing *jama* of the districts at the time when it passed under English administration.<sup>27</sup>

25. For notices of Buzurg Umed Khan see Sir R. C. Temple's edition of the *Diaries of Streynsham Master*, vol. i., p. 301, vol. ii., p. 280.

26. H. J. S. Cotton: *Memorandum on the Revenue History of Chittagong*, Calcutta, 1880. The original document was inspected by the present writer in 1909. It is torn and much defaced.

27. For explanation of the revenue jargon see Cotton: *Op. cit.*, p. 7.

			Rs.	A.	P.
Mahl Mahommed Reza Khan	...	...	3,37,761	1	11 $\frac{3}{4}$
Sowah	...	...	43,975	10	1
Mutferkat	...	...	2,127	2	0
Ezafa talkat hazarean	...	...	3,842	4	0
Nowabad	...	...	9,382	4	9 $\frac{1}{2}$
Saiar kesbah	...	...	760	7	14 $\frac{1}{2}$
Baze duffah	...	...	36,541	15	11
Russool nuger	...	...	9,528	2	6 $\frac{1}{2}$
Total	...	...	4,43,918	15	14 $\frac{1}{4}$

This survey of the increase of the land-revenues under Mughal rule evoked from the Council at Calcutta the order (24th June, 1761): "As Chittagong rents have been continually raised, raise them higher; but consult for the Company's interest and the happiness of the inhabitants."

That Verelst's revenue dealings were "direct" cannot be doubted. At an early stage of his residence, he caused a notice to be published throughout the district requiring that "all persons possessed of perwannahs and grants executed by former governors should bring them to the cutcherry on or before the 1st of April, Bengal Style, in order that their right to the same might be examined into, confirmed, and registered; . . . . . any person neglecting to comply with the order should forfeit all right to any lands he might lay claim to, for performance of which they were allowed one month and a half." Knowing that "lands once given in charity are generally held sacred," he sought the Governor's opinion as to whether or no it would be wise to make resumptions. The answer was: "Charity lands are to lapse to the Company on the death of the present holders, except in particular cases." Waste lands were granted for three or four years revenue free, and progressively increasing revenue to be settled at the expiration of that time.

For the period between 4th January, 1772, and August, 1778, with the exception of a volume of Commercial Correspondence with Luckypore,<sup>28</sup> there are no local records preserved at Chittagong. In his [ ~~cxix~~ <sup>xiii</sup> ] published work, Verelst writes: "Mr. Verelst was appointed to the chiefship the beginning of 1761, and quitted it in 1765. This province being exposed to frequent alarms, the revenues must fluctuate more than those in secure situations. But it may deserve to be remarked that the Subahdars of Bengal seldom received more than two hundred thousand rupees revenue."<sup>29</sup> The amounts received by the English in these early years are stated by Verelst as follows :—

28. At Luckypore the Company had held lands by talukdari tenure since 1758. See Imperial Record Department. Home Department Government of India Records. Public Proceedings. June 28, 1759.

29. Verelst : *View, etc.*, p. 74.



						Curr Rupees.
Jan.	1761 to April 1762.	Cash received ..	...	...	...	7,28,508
May.	1762 „ 1763	do.	...	...	...	4,67,368
„	1763 „ 1764	do.	...	...	...	4,20,474
„	1764 „ 1765	do.	...	...	...	4,04,721
„	1765 „ 1766	do.	...	...	...	3,66,158
„	1766 „ 1767	do.	...	...	...	3,78,830
„	1767 „ 1768	do.	...	...	...	4,22,766
„	1768 „ 1769	do.	...	...	...	4,32,540
„	1769 „ 1770	do.	...	...	...	3,98,835

During his term as chief at Chittagong, Verelst went far into Kachar on a military expedition to Manipur. Little of Kachar is heard of again in the English records until the beginning of the nineteenth century.

The cession of the Diwani lands in 1765 did not affect the direct character of the Company's administration in Chittagong. Here there were no "black collectors" to be superseded by European covenanted servants of the Company.

In 1773, when the Provincial Comptrolling Councils of Revenue were established, Chittagong was left outside their jurisdiction, and its Chief and Council continued to correspond directly with the supreme Revenue authority at Fort William.

In the administration of criminal Justice, the Chief was invested with the superintendence of the Faujdari jurisdiction. To the Faujdar it belonged to pronounce the future, or judgment, and this was submitted, in course, to the Naib Nazim, for confirmation. When the orders of the latter had been received it remained for the Chief to see those orders executed. The Chittagong records show that on certain occasions, when the order from Murshidabad enjoined the infliction of such penalties as mutilation or impalement, the Resident was tempted to procrastinate, awaiting advice from his superiors at Fort William, before proceeding to extremities.<sup>30</sup>

### Midnapur

The chaklas of Midnapur, Jelesore,<sup>31</sup> Hijili and Tamluk had originally formed part of the Mughal subahdari of Orissa,<sup>32</sup> but, after having for a [ cxxiv ] time been in the hands of two Mahomedan adventurers, were subjugated and annexed to the province of Bengal. Hijili and Tamluk did not come under the Company's administration until the grant of the Diwani in 1765, and, although they now form a subdivision of the Midnapur district, they were from 1765 to at least 1774, governed as a part of the Hughli district.

Having acquired the sanad for their occupation of Midnapur, the Governor and Council despatched Mr. John Johnstone to that place. He seems to have established

30. Cotton: *Op. cit.*, Appendix iv, pp. 221-22.

31. The *Imperial Gazetteer* spells the name Jaleswar.

32. *Vide* McNeile: *Village Watch*, p. 55 et. seq.

himself peacefully within the old fort, but within a few months he was besieged by the Marathas from Cuttack.<sup>33</sup> On 7th March, 1761, however, the Council were able to report to the Court of Directors :

"The Midnapore province being now free from troubles by the retreat of the Mahrattas to Cuttack, and a good force being kept there under the command of Captain Knox, we imagine the investment formerly provided at Ballasore may for the future be carried on with equal convenience and more security at Midnapore, and have accordingly transmitted to Mr. Johnstone your list of investment received per *Lord Mansfield* with directions to use his endeavours to comply with it. The revenues he is appointed to collect will supply him amply with money for that purpose, and the expences of Ballasore factory will be saved."<sup>34</sup>

Midnapur thus replaced Balasore as the Company's commercial headquarters in this part of the country, but the Resident's revenue functions were held to be of greater importance than his commercial activities. The near presence and the ever threatening movements of the Marathas as well as the lawless condition of the country, necessitated the preservation of a strong military control in the hands of the Resident. "His power for good or evil," writes the local historian, "was far greater than is now exercised by the Collector of the largest district in Bengal ; and, so far from being a mere merchant or factor, responsible only for the safe and profitable investment of the Company's advances, he was at once a statesman, besides being the chief executive authority in the district. It is very probable that the business of the Company's investment occupied but a small portion of his attention, his consideration being mainly directed to the sage and tranquil settlement of the revenues, or the expulsion from the district of gangs of robbers and dacoits ; to the destruction of a hostile French armament, or a skilful negotiation with the Marathas."<sup>35</sup>

In regard to the administration of criminal justice, the Resident at Midnapur possessed the same power as that entrusted to the Chief at [ cxxv ] Chittagong ; i.e., he was empowered to arrest robbers, dacoits, and disturbers of the peace, and was vested with the superintendence of the Faujdari courts. The police-stations (*thanas*) were under his direction, and while the subordinate revenue-collectors (*tehsildars*) gave their assistance to the thanadars, the latter would at times be required to assist the tehsildars.

On 9th July, 1768, the Resident wrote to the Collector-General : "Some very horrid murders have lately been committed here. The perpetrators are now in prison ; the facts have been fully proved upon them, and are now confessed by themselves. What would you have me do with them ? I wish to hang them for the sake of example, but do not

33. Long : *Selections*, No. 543.

34. At Balasore, Surgeon J. Bristow had lately been Commercial Resident, but in 1760 the Governor and Council did not think it worth while to appoint a European officer to succeed him, and determined to rely on the Faujdar. *Calendar of Persian Correspondence*, Vol. i, No. 1451. In 1766 Randolph Marriott was appointed Resident at Balasore.

35. J. C. Price : *Notes on the History of Midnapore as contained in the Records extant in the Collector's Office*. Calcutta, 1876, vol. i, p. 4.

think it would be proper to proceed to that extremity without your approbation". To this the Collector-General replied, on the 19th July : "Having spoken to the President concerning the murders mentioned in your letter of the 9th instant, he thinks an application to the Board unnecessary, and that the perpetrators ought to be tried in the Fousedar's Court at Midnapore ; where, if the facts are proved, they must be condemned to death ; in which case I desire you will order their execution to be made in such a manner as may be most likely to deter others in future". In regard to the cutcherry courts, when in 1771, the Directors sent out a number of recommendations for reforms, the Resident informed the Government at Calcutta that these recommendations were unnecessary in the case of Midnapur, since "all the judicatures in that district were under the authority of the Resident and persons appointed by him in every pergunnah ; that all cases in inferior districts were reported to the Resident and every case duly registered in the phousdar's cutcherry, so that there were no arbitrary fines or impositions, or any undue authority exercised, independent of the Resident".

The Resident again exercised a direct authority in regard to the revenues. In the General Letter from Bengal to the Court, 12th, November, 1761, the Council wrote :

"Mr. Johnstone has shewed the same assiduity in his department of Midnapore and we must do him Justice to remark that he has had, of all, the most difficult task, that province being made up of two districts of a great number of separate zemindars, everyone endeavouring to conceal the true value of his possessions. However Mr. Johnstone got into his hands some of the former years' accounts, and, having procured from them an insight into the several articles of the revenue of each zemindary, the amount paid to the Nabob, with such increases as at present seem reasonable, appears to be Sicca Rupees 6,65,854-9-10, but here also we may hope for annual improvements".

In 1762 Burdett succeeded Johnstone as Resident, and in 1764 Anselm Beaumont, a wealthy free-merchant of Calcutta who had been rewarded by a post in the Company's service as an acknowledgment of his services on the occasion of the Siege in 1756, relieved Mr. Burdett at the Residency. Beaumont had pleaded "that the granting of leases [cxxxvi] for a term of years is the only method to encourage the cultivation of waste land", and he had sought permission to form a hustabood, or actual valuation of the lands. On the 6th November, 1764, Governor Vansittart and his Council wrote :

"We observe that from the time the Company were first put in possession of the province of Midnapore we have met with the greatest obstruction from the zemindars in the collection of the rents, and have always found them ready to join our enemies whenever they have an opportunity : we think, therefore, that the Company's possessions in that country would be much better secured and the rents ascertained by entirely annulling the authority of zemindars and allowing them a fixed income for their maintenance by assignments of lands, and appointing officers everywhere on the part of the Company to collect the rents immediately from the ryots."

Hugh Watts, who had succeeded Beaumont, as Resident, in October, commented on this proposal :

"The annulling of the authority of the zemindars and allowing them a fixed income, and appointing officers on behalf of the Company to collect the rents from the tenants, I am afraid, would be very prejudicial to the country. They are so reduced that it is out of their power to do harm to the Country's affairs, and if encouraged (which granting leases will do), they well may be of great service. The assignment or allowance for their maintenance also to the zemindars and chowdries, with the charges of collections, must greatly exceed the increase of the revenues ; for, if such a scheme takes place, and the lands made the property of the Company, I believe I do not exceed in saying that about 3,000 families in justice should be maintained by us ; that is, so many would be deprived of lands which they have either held for many generations or have bought of the zemindars. Since this country has been ceded to the Company it has flourished, and will continue to do so as long as the zemindars and talookdars find either mildness of our government; but, if we are too hard or oppressive, there is great reason to expect it will rather decline".

In accordance with this advice, the Government, 11th December, 1764, decided that so long as the zamindars paid their tashkhis with regularity, it would be unnecessary to put into execution the resolution of removing them from the collections and placing them on pensions. In the year following, the Council decided that Midnapur was not a place of sufficient importance to justify the presence there of a member of the Board, and in consequence Watts was recalled, and Thomas Graham, who had served as assistant to W. B. Sumner in forming the revenue settlement of Burdwan, was sent to Midnapur, and a little later on Midnapur was brought under the superintendence of Harry Verelst. Against this reduction in the dignity of his office, Graham protested ; his letter concludes :

[cxxxvii] "As to your proposition of letting the lands upon more advantageous leases than have hitherto been granted, it must proceed from your not being sufficiently advised of the constitution of this province. There is no part of the land occupied by farmers ; the whole is possessed by the hereditary zemindars, who derive their rights from original sunnuds granted to their ancestors. By these they are entitled to the residue of the rents, after paying the Government revenue ; and, when the increase is added to their former payments, I do not apprehend that there will remain for their appropriation more than a scanty maintenance, which, were they to be dispossessed of entirely, must always be allowed them". 86

It may be observed that Graham, in obedience to orders received from the Select Committee, made a circuit of the Midnapur and Jellesore districts, and the records bear witness to the exertions he made to encourage ryots to settle in the waste lands. The primary object of the circuit was the acquisition of information relative to the value of the lands, so that any future increase in the revenue might be made without oppression of the

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36. Firminger : *Bengal District Records, Midnapur*, Vol. i, p. 42.

cultivators. Government expressed a hope that the Resident would make a circuit of his district once in each year.<sup>37</sup>

The foregoing extracts from the Midnapur records show that the principal preoccupation of the early English rulers in that province was with the various local zamindars. The records also show that the term zamindar was very loosely employed. We hear, for instance, of "the Midnapore zemindar"—a lady, the Rani Shiromani. On her were dependent a number of parganahs, each of which had its own particular zamindar.<sup>38</sup> Again in the Cosijura (Kashijora) parganah, out of 3,700 families resident therein, 1,500 are styled Khushnishans, and are thus described by the Resident:—

"Some of them have real sunnuds from former kings, nabobs, or zemindars, for the whole of their possessions, and some for part; some have forged themselves sunnuds, and others pretend they had sunnuds formerly, but have lost them by fire or robbery, and other accidents; and all, when they had once possessed themselves of any lands whether by grants or by forgery or by bribery or fraud, have never failed to combine together to prevent the zemindars from making any resummptions. Mr. Watts, during his residence, appointed five persons to examine into the claims of these Khushnishans, and Mr. Graham added another to the number. These persons accordingly made some inquiries; and some of the Khushnishans having been convicted of forgery, the Rajah insisted on rents from them. He has not, however, been regularly authorised to [ cxxviii ] do it, nor has the greater part of the claims been examined into, nor any final resolution taken concerning any of them. I have, therefore, added to the number of inquirers one person more, whom the Khushnishans themselves desired; and to these seven persons, consisting of the tehsildar, two ameens, the deputy chowdry, the deputy cauzy, and the two canoon-goes, I have issued a perwannah to the following purport; that they are to examine into the claims of all the Khushnishans; that were they unanimously agreed concerning the justice of anyone's claims, the Rajah is to grant him a fresh sunnud witnessed by them; that were they unanimously agreed concerning the injustice of claims, they must give a writing to the Rajah, under their hands and seals, permitting him to seize the lands in question; that the Rajah, having received the said written permission, may seize the lands whenever he pleases, unless the possessor will consent to take a pottah and pay rents in the same manner as other ryots; that where any of the aforesaid seven persons differs in opinion from the rest concerning the justice or injustice of a claim, it is to be referred to my decision, and that they are to send me weekly accounts of their proceedings. By this means a considerable quantity of lands may be added to the Company's malgoozaree, and there is a very little danger of anyone's being deprived of his just rights. With your permission, therefore, I shall pursue the like method in every other pergunnah, and where the like complaints may be made to me, I shall likewise inform myself as perfectly as possible of the number of Khushnishans in every pergunnah, and it may hereafter be worthy of consideration whether a great part of

37. *Ibid.* p. 48.

38. *Bengal: Past & Present*, vol. x, p. 296.

those who have sunnuds ought not to be subjected to the payment of some rents, suppose half of what is paid by other ryots.”<sup>39</sup>

Soon after establishing themselves at Midnapur, the English discovered that to the westward there was a large tract of country, which, although within the boundaries of the province<sup>40</sup> was in the hands of zamindars who had paid little or no revenue at all since the time of the Maratha troubles when Ali Verdi Khan was Nawab. At the beginning of 1767, therefore, Graham despatched Lieutenant John Fergusson on an expedition, the object of which was to bring the zamindars of these “Jungle” or “Western” districts to order. The military proceedings thus initiated ultimately extended to districts, which properly formed part of Burdwan. The records,<sup>41</sup> which afford ample illustrations of the difficulties of this task in a country covered with wild forest growth and subject to sudden and extensive inundations, show with what combined tact and firmness the work was carried out. [ cxxix ] These jangal chiefs are not inaptly described as “rebellious freebooters,” and their subjects as “chuars . . . bred up as much for pillaging as cultivating”. On the other hand, the English officer had to be careful lest his own soldiery might not “prove a weightier grievance to the country in general than those freebooters we are aiming to make sensible of their duty”. In 1781 some of these zamindars, in describing their country, write, “it is a jungle ; that their rents are a kind of quit-rent collected from their pikes and chuars ; they are surrounded likewise by jungle zemindars, on the east by Bogree and Bishnupur ; on the north by Pachet [Panchkot or Panchet] ; on the west by Singbhoom ; on the south Damudar Bhanza the Moharbunj Raja ; that all these are more mighty than they, and from whom they frequently suffer depredations, notwithstanding the redress upon application from Midnapore”.

It is interesting to notice that on 17th September, 1761, the Select Committee took into consideration the question whether or no “the properest step to prevent the Mahrattas from committing their usual ravages in Bengal will be to carry the war into their own country ” As a result of their debate, they wrote to Mr. Hay at Patna :

“Sir,

“At a Select Committee held this day, the state and manner in which we should employ our forces during the rainy season has come under our consideration. From the advices we have had it is scarce to be doubted that the Mahrattas will enter the country and commit their usual ravages, if no method is fallen upon to prevent them. We are of opinions that the most effectual step we can take for that purpose, and also to distress them and secure to ourselves tranquility will be to get up an expedition on foot against Cuttack.

39. Firminger : *Op. cit* , p. 144

40. Part of these unexplored lands really belonged to the chakla of Burdwan.

41. Two volumes of the District Records of Midnapur have been published by the Bengal Secretariat Record-room. Some scattered notices are to be found in the *Calendqr of Records of the Select Committee at Fort William in Bengal*, Calcutta (Bengal Secretariat Record-room), 1915.

"We, therefore, desire you will consult with the Nabob, and learn from him the value of the rents of the country lying between Jellasure and Cuttack, and what part of it he will be willing to make over to the Company to defray the expences of such an expedition, the success of which we have no reason to doubt, and which will, not only secure to him the total ancient possession of the Soubahs of Bengal, but also be a considerable addition to his revenues, and a grim barrier against future invasions of the Mahrattas.

*We are etc."*

On April 8th, 1762, however, the Select Committee wrote to the Court of Directors :—

"Gentlemen,

"...In our last we informed you of our resolution to prosecute our design against the Mahrattas at Cuttack, but the Nabob not [ ~~xxx~~ ] having sent the troops he promised nor given us a sufficient assurance of a reimbursement of the expences of the Expedition, and the Mahrattas not attempting any disturbances in our districts, we did not judge it expedient to make ourselves principals in the operations against them, but wrote the Nabob that, whenever he should resolve upon the recovery of the Province of Cuttack out of the hands of the Mahrattas, we should be ready to give him such assistance as he might apply to us for, on condition of his paying the expence.

*We are etc.*

P. Amyatt,

John Carnac."

Verelst, when governor, endeavoured to secure the possession of Cuttack by negotiation with the Marathas, but the design was not executed. Such an acquisition would have linked up the Northern Circars with Bengal, afforded a secure communication by land with Madras, and also afforded a much needed protection to shipwrecked mariners in the Bay.<sup>42</sup>

In 1765, Graham laid before Lord Clive's eye, ever ready to gloat over evidence calculated to incriminate the leading members of his predecessor's Council, a tale of unlawful increments derived from revenue gleanings and increased civil charges.<sup>43</sup> The records, however, provide no means for testing the truth of Graham's indictment.

42. See the *Genuine Memoirs of Asiaticus*. Reprint, 1909, for an account of a shipwreck in this part of the coast.

43. In addition to the Midnapur District Records, No. 737 of the India Office Record Department's "Home Miscellaneous" should be consulted. The following letter exhibits Clive's methods in a somewhat sinister light :

[ To H. Verelst ].

DUM DUMMA,  
29th December, 1765.

Dear Sir,

I know very well Mr. Senior's condition with the Rajah of Burdwan to receive 1,50,000 Rupees

Midnapur was not visited by the Committee of Circuit in 1772, but in August of that year the Resident, Edward Baber, was ordered to publish an advertisement inviting proposals for farming the Midnapore and Jellasore lands. He replied (1st Sept., 1772) :

[cxxxii] "In the regulations which accompanied the advertisement, I observe that the collector's servants and dependents of all denominations are prohibited holding farms or having any connections. I beg leave to ask whether the present zemindars of the province may be permitted to turn farmers ; for, if they are not, there is nobody in the country to make proposals, the whole of it being in the hands of hereditary zemindars, who derive their right from original sunnuds granted to their ancestors. This particular circumstance relative to these provinces may probably merit your particular attention. In Lord Clive's administration the Select Committee had the same intention of farming them, but it was not carried into execution on this account."

In 1773, when the English collectors were withdrawn from the districts, the administration of Midnapur began to enter into a period of change ; the district was then placed under the jurisdiction of the newly formed Provincial Council of Revenue at Burdwan, whither in 1774 its Resident was transferred, and a native officer, denominated Naib, was placed in charge of the local business.<sup>44</sup> Three years later, however, Mr. J. Peiarce, was sent to Midnapur to revive the office of Resident, a separate Commercial Resident being appointed to relieve him of the care of the commercial interests of the Company. In 1778 Midnapur was separated from the Burdwan province, and in 1781, when the Provincial Councils were abolished, the local Diwani Adalat was entrusted to a separate Magistrate.

The following statement as to the Midnapur revenues is derived from Verelst's book :

and that he received a part through the hands of Mr. Graham, and my intelligence says that this Mr Graham also received more than one lack on his own account. The Rajah can make you acquainted with these matters, and I wish you would come at them, because it may be necessary to have such anecdotes to frighten people into their duty to the Company, if no other use be made of them.

I hear a certain gentleman employs spies to watch all our actions—your's and Sykes in particular, but we may serve them as Scipio did those sent by Hanibal—lead them at noon-day through every department in which we are concern'd and then dismiss them, telling them they may go and tell their master all they know.

*I am, dear Sir,  
Your affec, Friend & Servant.  
Clive.*

44. On December, 1772, the Government had lightened the Resident's work ; "Several of the Zemindars and talookdars of your districts having applied for permission to pay their rents immediately to the Khalaria we have granted their request, and have in consequence to direct them as separate from your collection". With this arrangement the Resident was much dissatisfied.



May to the end of April—

Curt. Rs.

1760-1761	Cash received ...	...	1.16,925
1761-1762	do. ...	...	8,37,983
1762-1763	do. ...	...	7,43,330
1763-1764	do. ...	...	7,48,777
1764-1765	do. ...	...	5,90,932
1765-1766	do. ...	...	7,32,055
1766-1767	do. ...	...	10,05,882
1767-1768	do. ...	...	8,84,390
1768-1769	do. ...	...	9,75,051
1769-1770	do. ...	...	9,02,149

**Burdwan**

Since April, 1758, the English had been in possession of tankhwahs, or assignments of revenue in districts of the Rajas of Burdwan and Nuddea. Of Tilok Chand, the Burdwan Raja, the Company's servants had some unpleasant experiences in the times [ cxxxii ] before Plassey.<sup>45</sup> They were now especially desirous of maintaining good terms with him, since they looked to him for supplies of workmen to labour on the building of the New Fort William. Burdwan being easily accessible from the Presidency and yet not being an English commercial station, the President and Council were unwilling to send European officers to reside there, and their hope was that they would be able to leave nearly the whole of the administration in the Raja's hands. In July, 1759, Mr. Hugh Watts, who had gone to Burdwan on the business of the assigned revenues, had opportunity to discover the lawless conditions of the place. He writes to Governor Holwell :

*"Hon'ble Sir,*

In former letters I have acquainted you of the insolence of the Rajah's forces. Their behaviour for many days past in confining the Izardars<sup>46</sup> and attempting to seize the treasure as it is brought to the cutcherry has, not only given me great trouble, but prevented my collecting more money. The day before yesterday they stopped Gocool Mojumdor in his palanquin, and threatened to confine him. This day Sook Lall, a jemadar, killed one of my sepoy, who was then unarmed in the town. I sent to enquire the reason, but could get no answer, therefore I sent a subadar with 30 sepoy to bring him to me, but to make no disturbance. Before they reached the house, 7 or 800 forces were gathered, who presented their matchlocks as my sepoy were advancing. On this intelligence, I sent orders to the Subadar to retire to the Rajah's cutcherry, and I detached Lieutenant Brown with about 200 men to his assistance, with orders to avoid engaging, if possible ; but before Mr. Brown could speak to them, they began firing. This occasioned

45. In 1755 the Burdwan Raja had closed all the Company's factories within his district. Long: *Selection*, Nos. 147 & 151.

46. Ijaradars, i.e. revenue farmers.

an action ; in which, I am sorry to say, we have been greatly worsted, the sergeant and about 50 sepoys killed upon the spot, Mr. Brown and some others slightly wounded. Since the return of our forces to their quarters, I have intelligence that the enemy were increased to 5,000 strong, and premeditated an open rupture by seizing upon the treasure. These are the Rajah's unpaid discontented forces with other malcontents that harass the inhabitants, and disturb the peace of this province. Everything is quiet at present, and I believe will continue so. I cannot give you a more particular account this night, but will write again tomorrow.

*I am, etc.,*  
Hugh Watts."

[ cxxxiii ] Having read this letter the Council agreed "that a detachment of 130 European and 300 sepoys do proceed to Burdwan to be joined by a party of 300 Sepoys under the command of Lieutenant Nollikins, now on the other side of the river."<sup>47</sup>

The sanad granted by Mir Kasim for the cession of Burdwan to the Company appears on the Public Proceedings of the President and Council for November 17th, 1760. It runs thus in the official translation :

"To the Zemindars, Canoongoes, Talookdars, Tenants, Husbandmen, and chief Villagers of the pergunnah of Burdwan, etc., the zemindaree of the Rajah Tilluck Chand, in the districts of the Subah of Bengal,

"Be it known that, whereas divers wicked people have traitorously stretched forth their hands to plunder the subjects, and waste the royal dominions, for this reason the said Pergunnah, etc., is granted to the English Company in part disbursement of their expences, and the monthly maintenance of five hundred European horse, two thousand European foot, and eight thousand sepoys, which are to be entertained for the protection of the royal dominions. Let the above officers quietly and contentedly attend and pay to the persons appointed by the English Company the stated revenues, and implicitly submit in all things to their authority ; and the office of the Collectors of the English Company is as follows :—

"They shall continue the zemindars and tenants in their places, regularly collect the revenues of the lands, and deliver them in monthly for the payment of the expences of the Company and the pay of the abovementioned forces, that they may be always ready cheerfully and vigorously to promote the affairs of the King. Let this be punctually observed. Dated the 14th. of the month Rubbe-ul-awal 1st. Sun., answering to the month Cartic 1176, Bengal style."<sup>48</sup>

The circumstances of Raja Tilak Chand at this time must have been those of great distress. Holwell ascribes the Raja's inability to meet the revenue demand to the

47. Long : *Selection*, No. 468.

48. *Ibid.* No. 481. Aitchison, *Op. cit.* vol. i. pp. 216-17. [For Shah Alam's confirmation, 12th August 1765 See *ibid.* vol. i, p. 228. The sanad is for the parganah, but what had been promised was the ehakla.

shameless way in which he was fleeced by Mir Jafar, but it must be remembered that in saying this Holwell is defending the policy of substituting Mir Kasim for Mir Jafar.<sup>49</sup> It is more important to notice that for some months past the Marathas from Orissa had been making raids into Western Bengal,<sup>50</sup> and the Burdwan districts had suffered with special severity from this [ cxxxiv ] cause. The Raja's accounts, laid before the Council on December 18th compute the loss inflicted by the ravages of the Shahzada's army and the Marathas at Rs. 7,93,080-3-9.<sup>51</sup>

On 7th November, 1760, the Governor ordered Tilak Chand to repair to the Presidency and bring with him his accounts.<sup>52</sup> Eight days later the Raja was threatened that, if he would not come of his own accord, troops would be despatched to bring him thither by force; and again two days later he was informed that, in consequence of his disobedience, the Company had decided to deprive him of his zamindari.<sup>53</sup>

In the meanwhile the Nawab had announced that the Rajas of Burdwan and Birbhum were alike unreliable, that it was his intention to chastise them, and that he "would like to send for the old zemindar of Burdwan and place him in the situation held by his ancestor's".<sup>54</sup> Towards the end of the month, however, Tilak Chand undertook to send a capable person to the Presidency to explain affairs, and that his own visit would not be long delayed.<sup>55</sup> The Council, who still maintained a hope that the Nawab would execute his promise of chastising the Raja, while sending W. B. Sumner to Burdwan to investigate the accounts, and providing troops to secure the peace of the district, attempted to assure the Raja that he need have no fear, provided "he acted in the right way, and attended to the adjustment of the Burdwan affairs".<sup>56</sup> A native official of the name of Bia Ram was to receive the Burdwan papers from the Ray Rayan, and the revenues paid direct to an officer of the Calcutta Government. Not all of these measures were taken, for in December we find the English still talking about sending troops, and on the 19th of that month, the Governor congratulates the Raja on "his turning a deaf ear to his former ill-advisers" and on his "reformed conduct".<sup>57</sup>

On December the 16th Rajchandra Ray, the Burdwan vakil, arrived at the Presidency, and two days later the accounts were laid before the Council. The Raja's future payments were then settled as follows :<sup>58</sup>

				Rs.	A.	P.
Khalsa, Jaghir and Chouth	..	...	...	26,37,937	6	9
Sundry allowances on Durbar charges etc.	to the Sircar	...	...	2,18,182	0	9
Total				28,56,119	7	6

49. Holwell ; *India Tracts*, p. 84.

50. Clive's departure seems to have given the sign for the Maratha movement.

51. Long : *Selections*, No. 487.

52. *Calendar of Persian Correspondence*, Imperial Record Department, No. 559.

53. *Ibid.* Nos. 578, 589. 54. *Ibid.* No. 598. 55. *Ibid.* No. 601.

56. *Ibid.* No. 620. 57. *Ibid.* No. 694. 58. Long : *Selections*, No. 487.

[cxxxv] *Deduct—*

	Rs.	A.	P.
The pergunnah called Bealan, <sup>59</sup> now belonging to the Company ...	38,750	7	1
The Sattimaul <sup>60</sup> or the duties on piece goods, which the Nabob ...			
Jaffir Ally Khan ordered not to be collected ...	1,16,711	1	9
Total ...	1,55,461	8	10
	27,00,657	14	8

To be paid in 5 years, in consideration of damages done to the country by the Marathas and the marches of the army :—

	Rs.	A.	P.	Rs.	A.	P.
In the year 1168 or 1761 ...	1,50,000	0	0			
„ 1169 „ 1762 ...	1,70,000	0	0			
„ 1170 „ 1763 ...	1,70,000	0	0			
„ 1171 „ 1764 ...	1,70,000	0	0			
„ 1172 „ 1765 ...	1,84,062	0	0			
				8,44,062	15	0
				18,56,594	15	8
Old Balance due according to Raja Tilluck Chand's account, being the remains of Rs. 16,51,872-15-10 ...				1,81,390	1	2
				20,37,985	0	10
Whereof the Royroyan received in the year 1167 or 1760 from August to September, according to the Rajah's account ...				10,02,700	12	0
				10,35,284	4	10

*Kistbundee of the year 1167 or 1760.*

Poos ending the 10th January 1760 ...	2,85,000	0	0
Maug „ 10th February „ ...	2,75,000	0	0
Pagoun „ 10th March „ ...	2,50,000	0	0
Cheytt „ 10th April „ ...	2,25,284	4	10
Sicca Rupees ...	10,35,284	4	10

It was the unanimous opinion of the Board that this settlement was far from representing the real value of the Burdwan lands, but [cxxxvi] they were constrained to be content with it, seeing “how many of the zemindars have taken part with the Shahzada, and how near Burdwan was being persuaded to take the same course.”

The correspondence of 1761 is full of the Council's complaints against the Raja, and counter-complaints, probably of a fictitious character, of the Raja against Major White, the officer to whom had been entrusted the task of driving out the Marathas and

59. Ballea, one of the Twenty-four Parganas, in which the fort of Budge-Budge was situated.

60. Seti-mal.

subjugating the rebellious Raja of Birbhum. In February the Council pointed out to Tilak Chand that of Rs. 2,85,000 due from him, Rs. 50,000 had been received with one chalan, 31,000 with another, while the third chalan, for 79,000 had arrived unaccompanied by cash; and the January kist was now overdue.<sup>61</sup> On the following day the Governor and Council wrote to the Nawab, whose interests were much affected by the unsatisfactory state of things at Burdwan, that now at last they were sending "a person with troops and cannon" to receive the arrears of revenue, and the Raja was informed that Mr. Sumner was on his way to Burdwan "to collect the money and, with a few troops to secure the country and drive out the Mahrattas."<sup>62</sup> This, however, was only another feint, for on February the 9th the English informed the Raja that, his Vakil having undertaken that "Ramdhan Naj shall come to Calcutta in seven days with what remains of the *quist*," although, if he (the Raja) will not keep stationary at Burdwan or remit his dues, "Mr. Sumner will certainly be sent." This threat is repeated on Feb. the 11th with, however, the explanation added, that Mr. Sumner's arrival "will be beneficial not disastrous to the country." In reply to this Tilak Chand remarked "it would be disastrous to send Mr. Sumner." The Governor and Council at this time were not without grounds for suspecting that the Raja had tampered with their correspondence with Major White. The Raja still absented himself from Burdwan, and even the Raja's own Diwan pressed the Governor to send a native Tahsildar to Burdwan.

At the end of March, the arrival of Mr. Sumner at Burdwan is announced to take place in two days' time but on April 3rd. the Raja's revenue officials were at Calcutta, and a kistbandi made for the closing and ensuing years. Ten days later Tilak Chand wrote to thank the Governor for recalling Mr. Sumner. On the 13th, Sumner is "shortly to proceed to Burdwan," and the intimation is repeated a week later.<sup>63</sup> The reason why Sumner is being sent back is that "Ramdhan Naj gives information that the country is disaffected, and that, in consequence of some evil rumours, the managers of districts and the tenants are fleeing from the Raja's zemindari". "Mr. Sumner will act in accordance with the Raja's wishes, and assist in the collection of the revenues". The troubles alluded to may have had the effect of changing the Raja's mind: it may be hoped that the letter he wrote, saying that "Mr. Sumner's arrival has much rejoiced him", [cxxxvii] was not a mere idle compliment. On June 15, 1761, the Raja wrote to complain of "the hardships he had suffered at Mr. Sumner's hands".<sup>64</sup>

In the General Letter from Bengal to the Court, 12th November 1761, Sumner's deputation is thus described :

61. *Calendar of Persian Correspondence*, No. 877.

62. *Ibid.*, Nos. 884 and 885. 63. *Ibid.*, Nos. 894, 910, 914.

64. *Ibid.*, Nos. 937-38, 989, 1057-59, 1092, 1100, 1106, 1128, 1148, 1157, 1172, 1202, 1215, 1223, 1237, 1248-49, 1312, 1322.

—“72. . . . Mr. Sumner was appointed in the month of March to proceed to Burdwan, and soon after the Rajah, by his principal Vakeel, proposed to encrease the Maulgazary<sup>65</sup> (or Government's share of the revenues which now belongs to the Company) to Rs. 25,20,661-8-0 for the present Bengal year, and for the next to make it 28,56,119-7-6. This we thought so considerable an augmentation that we had determined to accept of these terms, and Mr. Sumner was accordingly recalled; but, upon his arrival, and informing the Board that, by some lights he had procured into the state of the revenues, he imagined that upon a scrutiny, more advantageous terms could be made for the Company, he was directed to return to Burdwan, and empowered to make a full examination into the real produce of the Country. This commission he fulfilled with great diligence and much to our satisfaction and on the 15th June laid before the Board his proceedings at large in twelve papers of which No. 7 is the computation of the whole produce of the Burdwan Province, being Forty one Laak fifty Eight Thousand Seven hundred and Seven Ruppees, fourteen Annaes, and two Pice (Rs 41,58,707-14-2). No. 10 is a state of the malguzary being what the Rajah is obliged to pay every Year, except in cases of devastation by public enemies amounting to Sicca Rupees Thirty Laaks (Sa. Rs. 30,00,000) and for which Mr. Sumner took the Rajah's acknowledgement but it being customary in this country for the Nabob to demand a further sum from the different rajahs over and above the malguzary in any case of extraordinary expence, as raising new forces, building fortifications, &c. it appeared to Mr. Sumner that we might reasonably make some demands of this kind for the present year because the Rajah by the troubles in which he engaged at the time of our taking possession really put us to an extraordinary expence and because the assistance he now has of English troops will enable him to discharge a great part of his own, accordingly after some objections he signed another acknowledgement for two Laaks and a half to be paid on that account. A ballance of more than five Laaks of last year's revenues remained unpaid at the close of the Year, and which the Rajah and his Officers declared to be outstanding in the country on account of the troubles, of these Mr. Sumner collected a part and for what remained due at the time we made the agreement with the Raja for the new year he took another [ cxxxviii ] obligation the amount four Laak eleven thousand eight hundred fifty seven Rupees thirteen Annas and four Pice (Rs. 4,11,857-13-4). The whole state of the moneys to be received from Burdwan for the present year is therefore as follows :

		Rs.	A.	P.
For the Malguzary	...	30,00,000	0	0
For Expences of the Troops	...	2,51,000	0	0
For last year's ballance which however is to be collected from the ballances outstanding in the Country or else to be made good by the Rajah or his Principal Officers so as not to interfere with this year's produce...		4,11,857	13	4
Total	...	36,61,857	13	4

"After this plain Detail of the advantage which the Company will receive from Mr. Sumner's diligence in the execution of this Trust it is needless to add anything in his favor. Upon his return to Calcutta the collection of the Money according to the Kistbundee or Monthly proportion settled was left in charge to Mr. Graham who went with Mr. Sumner as assistant, and we have the pleasure to acquaint you that to this time the payments of the thirty two laaks and an half have been made very regularly, the collecting in the old Ballance meets with some difficulty, but we shall insist on all deficiencies being made good by the Rajah and his officers, and we promise ourselves that upon the whole there will be a smaller balance outstanding at the end of this year than is usually admitted in this country notwithstanding the disadvantages the Burdwan country has labored under this year by reason of the troubles which were not quelled till March, and by reason of the large arrears due to the Rajah's own troops amounting to Rupees (Rs. 4,50,000) as Per No. 9 in Consultation of the 15th June, disadvantages which it will not be subject to another year".

While all these transactions were in progress the English had been turning a deaf ear to their native advisers. In November, 1760, the Governor had been informed by Soliman Bey "that the Burdwan Rajah is entering men into his service ; that 15,000 peons, pikes and robbers and others are already in pay and others are daily entering".<sup>66</sup> In the same month the Nawab himself wrote : "I am informed that the zemindar of Burdwan has bad intentions, and has conferences with the Beerboom Rajah, and they have agreed to act in conjunction. I hope that you will send troops to Chuckla Burdwan, Midnapoor, Islamabad [Chittagong], to take possession of them, and that nothing can accrue from their bad intention".<sup>67</sup> Again in December, [cxxxix] after having repeated his warning, the Nawab insists : "You write that the Burdwan zemindar is but a young weak man and his people of no consequence, and, regarding the good of his country, you have prevented the troops from going to Burdwan, and sent them to Midnapoor. The Burdwan zemindar has entered sepoys into his service, and his intentions are evil, but that will avail nothing. Till he has dismissed his troops, come to you, and settled everything, his writing and speaking will not satisfy us. The zemindars will before you be submissive, and comply with everything you propose ; but they are all deceit, and only wait an opportunity to surprise you".<sup>68</sup> In January, 1761, Mir Kasim wrote : "I am informed that Shu Bhut Mahratta with 2 or 3,000 horse and as many foot has joined the Beerboom Rajah, and the Burdwan zemindar acts in conjunction with them".<sup>69</sup>

All these warnings were based on fact. When Captain Martin White was on his way to join Major Yorke in the expedition against Birbhum, he had, on the 29th. December 1760, to deal with the Rajah of Burdwan's army, amounting to some 10,000 men in arms. Without the loss of a single man, White inflicted a complete defeat on the Raja's forces, leaving 500 killed on the field.<sup>70</sup> The English, however perhaps wisely,

66. Long : *Selections*, No. 504.

67. *Ibid.* No. 506. Mir Kasim writes (*Ibid.* No. 508) : "It is my intention to send for the old zemindar and give him a surpan, and make him happy by reinstating him in the zemindary."

68. *Ibid.* No. 516.

69. *Ibid.* No. 537.

70. *Ibid.* No. 558.

chose to look upon the Raja as still their friend. On January the 16th the Council reported these doings to the Court :

"101. Of the Revenues of your late valuable acquisitions of Burdwan, Midnapore, and Chittagong, we can give you but an uncertain statement. The Burdwan Rajah, persuaded by the reports of some ill designing persons round him, that it was our design to turn him out from his zemindary, seemed inclined to take the part of the disaffected rajahs. How expedient soever it may be hereafter to have an exact measurement of that extensive province and to divide it out into small parcels, yet it was by no means our present intention, being unwilling to give the Rajah any reason to take part with the enemies of the Government at a time when the country was already full of commotions. We endeavoured therefore, by all possible means to continue him in the zemindary, with which appearing satisfied, he sent one of his principal officers to settle a Kistbunda or stipulation of payment for the remainder of the present Bengall year ending the 10th April, the whole amount of the said Kistbunda was Sicca Rupees 1,03,584-4-10, as is entered at large in our consultation of the 18th December.

"102. These terms, we are sensible, were much below the real value of the lands, and much to the Rajah's advantage ; but, in consideration of the present want of money here, and at Fort St. George, and for other reasons more particularly mentioned in the said consultation, we thought it prudent to accept of them, and reserve to a future opportunity the establishing [ cxi ] such regulations as might seem more beneficial to the Company. But it is now again doubtful whether even these payments will be made according to agreement, for the Rajah, under pretence of being obedient, seems to have carried on a private correspondence with the other disaffected Rajahs and it is fortunate we should have had so early an opportunity of putting him to the proof.

"103. A detachment which was sent to take possession of Midnapore under command of Captain Martin White, was ordered, that service performed, to march to join Major Yorke, who is proceeding, in conjunction with the Nabob, against the Beerboom Rajah. The road from Midnapoor to the place where the two parties were to join happens to lie through the town of Burdwan. Captain White had the most positive orders to regard the country as a possession of the Company's and the Rajah as their friend, which orders he strictly adhered to, but the Rajah, who no doubt had designed to prevent the junction, of our troops, opposed with all his force the passage of our detachment over a river near Burdwan. Captain White deferred as long as possible the coming to extremities, but when he found himself obliged to it, it did not cost him much to give the Rajah's forces a total defeat. They dispersed, abandoning the town and Captain White proceeded on quickly to the place of his destination. We have had no advices from the Rajah since, and doubt not that this accident will have good effect, and it certainly gives us a very just reason for putting the zemindary upon that footing we think the most convenient, and such measures we shall take when circumstances will admit of it.



"104. Of the Country of Midnapoor our troops took quiet possession, but, this district consisting of a number of zemindaries, the regular payment of its Revenue can't depend on the idea they have of our Force. We have got an account of the Revenue, as entered in the Books of the Government, amounting to Rs. 5,30,063-2-4 as per No. 43 in the packet, but we look upon this as a very uncertain computation, and hope to be better informed from Mr. John Johnstone, who is sent to Midnapoor for that purpose.

"105. We have got a like account of Chittagong Revenues, amounting to Rs. 5,04,148-6-6 as per No. 44. Mr. Verelst is gone thither with the other gentlemen, as mentioned under the 6th head of Servants, and we hope soon to receive a satisfactory account of their enquiries and regulations".

From March, 1761, may be dated the establishment of an English revenue official at Burdwan. Unfortunately Burdwan has no locally preserved district records of earlier date than 1786, when Burdwan was made a collectorate, and we are, therefore, without the assistance provided at Chittagong and Midnapur. The English official at Burdwan is styled a Resident, but it is probable, the desire of the [ cxli ] Council to make the Raja as much as possible answerable for the management of his districts to some extent differentiated the character of the Resident of Burdwan's functions from those of the Resident at Midnapur. At the beginning of the new revenue year (1763), Mr. John Johnstone,<sup>71</sup> was sent to Burdwan to make a new arrangement with the Raja. The General Letter from Bengal of 30th October, shows that this gentleman made a settlement for thirty-four lakhs of sicca Rupees, in addition to the outstanding balances. Mr. Johnstone was much employed on this occasion in reducing the numbers of the Raja's disorderly troops. Here again may be seen at work the process, which, in the first chapter of the present work, has been called "the virtual conquest of Bengal". Major White's victory had made possible a peaceful disarmament of the country power, although the appearance of waging war with the Raja had been, as far as possible, carefully avoided.<sup>72</sup> In 1763, when Mir Kasim made war on the English, many of these disbanded troops found service under his allies.

Under Johnstone's administration the system of putting up the revenue collections to farm at a public auction was introduced, a measure of which the Court of Directors expressed their disapproval in their General Letter of 17th May, 1766. In this Letter, the Directors say :

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71. John Johnston. A son of Sir James Johnston (the 'e' is both often omitted and inserted) had been in charge of a gun at Plassey, and accompanied Col. Forde in his campaign in 1759: He was Resident at Midnapur in 1760, and stood a siege by the Marathas at the Midnapur Residency. In 1765 he was one of the most prominent civil servants accused of corruption by Clive. He was prosecuted in England by the Court of Directors, but the cause was abandoned by order of the Court of Proprietors. See *Bengal: Past & Present*, Vol. iii, pp. 392-93.

72. "Mr. Johnston reduced the Najdean force, which had previously been a considerable army, maintained at the cost of three lakhs per annum, and with the sanction of Government fixed the sum of Rs. 1,03,360 as an annual allowance to the Raja out of the gross jumma of the estate for their support" McNeile: *Report on the Village Watch*, p. 82. Cf. Long: *Selections*, Nos. 954-55.

"In the province of Burdwan, the Resident and his Council took an annual stipend of near Rs. 80,000 from the Rajah in addition to the Company's salary. This stands on the Burdwan account, and they carried that pernicious principle even to sharing with the Rajah of all he collected beyond the stipulated malguzarry, or land revenue; overlooking the point of duty to the Company, to whom properly everything belonged that was necessary for the Rajah's support".

After making an admission that the method of auctioneering the revenue to farmers, might have been justified by circumstances in the instance of the Calcutta lands, the Directors, go on to say :

"When large provinces fall under our government, such as Burdwan, we could not think the same conduct should have been observed, but you should have made the best terms [cxlii] you could with the Rajah for the malguzarry or land revenues. Particular local circumstances might have required deviations from the general rule—such as the incapacity of the Rajah, which might have been remedied by putting proper ministers about him; and experience has convinced us they have either erred in judgement or their duty to the Company. For after all the various experiments of putting the farms up to public sale, by which means many families seem to have been utterly ruined, of keeping the lands in the hands of the Company, which you call Coss (*khas*), and the various methods that have been tried, find the collections brought to the Company's credit for the year 1764 are five laaks less than what were paid in Ali Verdi Cawn's time in 1752."

In this letter the Directors state that it was precisely from the Burdwan transaction that "we have acquired the most experience of the nature of the collections of the revenues". This consideration gives a special weight to the words in which Verelst expresses his judgment on the farming system as at first practised under the English administration :

"On my arrival at Burdwan, and inspecting the state of the revenues and collections for the preceding as well as the present year, I was surprised to find a large decrease of the revenues from our first taking possession. The rents of the province, according to the *jummabundy*, or rent-roll of 1168 or 1761, amounted to Rs. 37,24,474-10-8, which, by the outcry (*i. e.*, public auction) of 1169, were increased to Rs. 5,29,034-1-11, also by *Chaukeran* <sup>73</sup> *malguzarry* affairs (or lands allotted for servants, resumed this year) Rs. 1,03,825, making in all Rs. 43,57,334-0-7, out of which Rs. 3,785-4-4 were deducted for the Rajah's *Nuncar* <sup>74</sup> in one of the *pergunnahs*. The sum, therefore, due was Rs. 43,53,548-12-3, of which were collected from the farmers Rs. 34,60,985-1-8. For the year 1170 or 1763, the same *jummabundy* and with some small articles of increase, came to Rs. 44,81,035-10-15, of which were collected Rs. 37,19,464-9-4. The very great balances of these two years, amounting to Rs. 16,54,134-12-6, made the Honourable Board sensible of the impossibility of the then farmers complying with their agreements, and that the lands could not be made to produce anything equal to the valuation in consequence of

73. Chakaran, plural of *chakar*, a servant.

74. Nankar.

the outcry in 1169. They therefore issued an order, whereby those who chose it might relinquish or keep their farms on making good the balances out of their private fortunes, and that such as were not able should have their farms taken from them, and their goods sold to do it. Many were glad to take advantage of the first order, although certain ruin attended it ; and many more were obliged [cxliii] to submit to the latter, by which lands to the amount of Rs. 2,615-4-4 became *coss* (*khas*). The advantages of collecting in that manner were so evident, that it was resolved to endeavour to farm them out again for the third year on the best terms that could be procured. The examples, however, of the two former years were sufficient to prevent men of substance and credit from offering themselves ; so that only to the amount of Rs. 5,80,429-4-0 was taken at a considerable discount from the former Jumma or valuation, although the most profitable were selected out of the whole by the Muttorseddees, who were well acquainted with what they would produce. The rest, amounting to Rs. 20,35,934-4-0, still continued *coss*, and *sheikdars*, or collectors were appointed to them, people in every respect as unworthy and infamous in their characters as the purchasers of the year 1169, who had been just dismissed, by which the expences in collecting were very considerably increased. The *jummabundy* of 1171, including an increase this year of Rs 3,013-9-16 amounted to Rs. 44,84,049-4-11, out of which is to be deducted Rs. 12,744-4-18 for losses sustained by hail, etc., so that Rs. 44,71,304-15-13 remained due ; of this sum was only collected Rs. 35,12,393-3-0, so that there appears to be a balance for the—

first year of	...	...	Rs.	8,92,563-10-15,
second year of	...	...	„	7,61,571 - 1-11,
third year of	...	..	„	9,58,911-12-13,

making altogether for the three years for which the lands were sold at an outcry, a deficiency in the estimation made from the sale of 1169 of Rs. 26,13,046-8-19. Out of the balance of the third year, the sum of Rs 5,54,124-6-14 arises from the *Coss* lands only,—a sum much larger than the amount-advances bid at the outcry, not a rupee of which can ever be recovered, as the revenues of those lands are collected by servants appointed for that purpose, whose duty it was to pay into the treasury only what they receive from the tenants, on settling whose accounts no further demand could be made upon them.

“From the above account you will observe how very short of what was estimated in 1169 the real produce of the province has been, and how little prospect there was of its mending ; nor do I think it can be otherwise whilst the same plan of an outcry is pursued. The being put into immediate possession of the lands, of which the purchaser is to have the sole collection, independent of the Raja and his officers, or the Chief and Council, on his agreeing to pay into the cutcherry a certain sum, is a sufficient inducement for men of desperate fortunes, such as have no method of livelihood, and who, by their malpractices in other parts, were incapable of getting employment, to come and offer themselves as purchasers, [ cxliv ] thereby securing an immediate subsistence, and hoping by their oppression to get some profit, even should they buy in the lots too dear to obtain

anything by them in a fair way, and, as the sale was public, no bidder could there be consistently objected to. With these views, they cared not what they bid ; and while the old farmers, who had possession, perhaps, from father to son for many years past, continued to rise in their offers, and probably exceeded the real value of the lands, rather than be turned out of what they had esteemed their estates and habitations, and insulted by newcomers ; these last always thought they could afford something more. Thus the greatest part of the province fell into the hands of a set of rapacious wretches, who revelled in the produce of the lands which ought to have been paid into the cutcherry ; the consequence of which was, that, at the close of the year 1170, a most enormous balance was incurred, as has been above remarked, and the ryots, who had been oppressed by the head-farmers, and many ruined, were obliged to desert their lands, which became uncultivated. The substantial farmers, who, rather than quit their habitations, had purchased at the outcry, at an exorbitant rate, were obliged to relinquish their farms on making good the balances out of their private fortunes, by which many were ruined, whilst all the satisfaction that could be obtained from the others, was to turn them out, without hopes of ever recovering anything from them.<sup>75</sup> ... After the heavy losses and real detriment the first outcry had proved of to the whole province, I was greatly surprised to find, on my arrival here, that it had been again exposed to public sale. However, purchasers had only been found for about 22 lakhs of rupees, so great was the prejudice taken at the former sale, and the whole of that very considerably under the *Jummabundy* of 1169, excepting the farms lately held by Messrs. Johnstone, Hay, and Bolts, on which a great advance was bid ; the rest of the province, for which there [ *cxlv* ] were no bidders, became *Coss* [ *khas* ]. The statement of the revenues of the lands is as follows :—

Christian Æra		Bengal Æra	Rs.	As.	P.
1760	or	1167	... 10,14,242	1	4
1761	„	1168	... 11,66,910	3	10
1762	„	1169	... 12,72,854	0	15
1763	„	1170	... 12,72,854	0	15
1764	„	1171	... 9,12,237	1	5

75. The Committee of Circuit in 1772 held that long leases were essential to the good working of the farming system. In 1776, the Court of Directors ordered that the leases should be for one year only, although the local experience of their servants favoured longer leases, and the Directors' orders were frequently disobeyed. Verelst elsewhere in the letter under quotation in the text, writes : "If the leases are granted for so short a time, it only serves as an incitement to ill-disposed people to take them : having no concern in the future success and welfare of the country, they pay no regard to anything but enriching themselves at the expence and to the detriment of the industrious Ryot, by which the lands soon become neglected and uncultivated. It is a known custom here for the farmers, who are desirous of increasing the number of their tenants, and promoting the good of their country, to assist them from time to time with money towards purchasing the necessary implements for cultivation, as well as to support their families till the produce of their lands enable them to support themselves, and which I have never known repaid in less than three years. It is not, therefore, to be expected that people in the above circumstances

"By which you will observe the great difference in the *Jumma* or valuation of them, between 1169 and 1171, the first and the last years of the outcry, besides the almost certainty, from the distress the lands were left in, of their decreasing as much again in their value, if continued to be collected in this manner, and attended with a very considerable addition of expence in servants, etc., that must be employed in that service".<sup>76</sup>

Finding the revenues in this perilous condition, Verelst, on his arrival at Burdwan in August, 1765, found himself in a position to substitute a new system for that of "an outcry". This fact in itself affords a striking instance of the fallacy that not till 1772 did the Company's servants exert themselves in direct revenue administration. Verelst's method was to abolish the public sale, and instead "to engage men of substance and character" to take charge of the collections, "with a promise, that if they exerted themselves in the improvement, they should never be dispossessed, but meet with all due encouragement and favour from the Company". The lateness of the season compelled him to give immediate possession; and in return, the newly-established revenue-gatherers undertook to realise and pay in an equivalent to the yieldings of the previous years, to give progressive increase in the second and third years, in the fourth to pay what had been yielded in 1167 B. S., and after that to "subject themselves equally to others to any general increase or tax upon the province".

A further and equally significant instance of direct administration is to be found in the action of the Company's servants in regard to the *Bazi Zamin*, or lands granted rent-free for the maintenance of religious or charitable persons or public institutions. Verelst tells us that his predecessor, Mr. Johnstone, had "taxed the whole of this land at 9 annas per bighah, without regard to what was really applied to the purposes it was intended for, except some which Mr. Marriott had cleared during his short stay at Burdwan". Verelst finding that many of these lands were in fact uncultivated, and that where productive they formed "a nursery of indolence," for altogether unworthy persons, while undertaking to admit claims properly substantiated, secured from the Rajah, in whom the right of reversion of such alienations was vested, the reversion of all such exemptions as would fall to him by death of the holders, until a sum amounting to one half of the whole should be [cxlvi] obtained. This he designed to be kept as a fund for the support of "such invalided sepoys and others as have, or may suffer in our service".<sup>77</sup>

The frequent orders of Government, for a scrutiny of sanads and claims;<sup>78</sup> and a just valuation of the lands, had never been complied with, for the system of disposing of the collections by public auctions was supposed to have the merit of freeing the Government from the necessity of minute and painful inquiries into ancient records and the toil

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should attempt improvements at a certain loss; on the contrary, when the lands are disposed of at a moderate rent to substantial and creditable people, to be held in perpetuity, it becomes their own interest equally with that of government, to encourage the cultivation."

76. Verelst: *View, etc.*, Appendix, No. 131, pp. 214-16.

77. Verelst: *View, etc.*, Appendix, p. 214. 78. Cf. Long: *Selections*, No. 590.

of exact land measurements. Johnstone, who had advocated the farming system, held that "the outcry" would, by economic law of competition, reveal the value of the lands, as it was to be presumed that no man would purchase at a loss. Experience proved here in Burdwan, as at a later date it was to prove elsewhere to Warren Hastings, that speculation does not confine itself to the limits dictated by prudence. In justice, however, to the Company's servants, it must be said that the farming system was the method recommended to them by the native officials, on whose trained experience they were bound to set great reliance. "On examining into the circumstances of the principal farmers of the province", writes Verelst, "I found that the most considerable part of the land was farmed by the *Muttaseddees*, and those the most principal selected out by them; it is through these people we are to acquire a knowledge into the state of the country, the revenues and the customs in collecting; and while they, by being such extensive farmers, have so large an interest, they do their utmost, not only to keep us ignorant, but also to deceive us in points of the greatest consequence; besides which, being themselves capable, and, no doubt, guilty of great frauds, in their accounts, they are under the necessity of conniving at the same in others, to prevent a detection in themselves. They are very sensible how these arguments may be used against them, and are the more cautious of letting it be known what lands they have, giving different people in their families for securities. This is not only the custom of the heads, but is followed by every petty Mohooree in each office; exclusive of which, the infamous practices used by them to obtain lands at the outcry at under-rate, are most notorious".<sup>79</sup> The system of public sales, could at the best, only reveal the value of lands with which Government was already acquainted; but "the great quantity of lands, in possession of the different *Muttaseddees*, have been selected out of the whole province as the most profitable, containing more cultivated lands, and producing a greater profit than is by most people imagined; these they ever kept amongst themselves, to prevent their real value being known".<sup>80</sup> During the [cxlvii] period 1758-1772 there came into existence a new Bengal landed aristocracy which owed its wealth to founders who had been revenue servants of the Company or *banians* of the Company's servants.

It must, however, be remembered that it was the native officials alone, who, in these early days, made great fortunes, thanks to the Company's ignorance of the country

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79 Verelst: *View, etc.*, Appendix, p. 217. Verelst explains "Mohooree" as "any writer or under-clerk, among the natives of Bengal": "Muttaseddee" as "a general name for all officers employed in taking the accounts of Government, or any person of consequence."

80. Verelst: *Op. cit.*, Appendix, pp. 217-18. Verelst recommended—

- (i) That "such *Muttaseddees* as hold a large quantity of lands should be obliged to quit them, or their officers, and that nobody holding any post be permitted to farm, except it be a very small quantity for the conveniency of their house and family."
- (ii) That "an account should be made in every *pergunnah*, and every village, *haut*, etc., in it, of its *jumma*, and the exact measurement of its lands, and as much of this last as possible by surveyors to be appointed" by the Board. *Hat*—(corruptly "*haut*,") a market held at stated times.

and the opportunities afforded by the system of farming out the collections. The names of Johnstone, Hay and Bolts are vested with an unenviable reputation, which the burking of an enquiry tended to enhance. It may, however, be said that not a few of the charges recklessly brought against the Company's servants by their employers, prove, on investigation, to rest on a perverse misconstruction of a system which had always allowed certain privileges to the officers of the Government. The sums which we find Sumner and his assistant, Graham, were compelled to refund were in fact recognised perquisites of their offices. It must also be admitted that when a Government puts up at public auction advantages which are to be asserted by the bidders' free offer, it can hardly be a matter of complaint if those who know best the value of what is offered bid "at an under-rate." An auctioneer, who puts no reserved limit on his lots, is hardly in a position to claim that he is cheated, if after he has accepted a bid the supposed paste jewels prove to be real diamonds. The moral argument might be advanced that the auctioneer's assistants had had the opportunity of making themselves better acquainted with the worth of the lots, and that their duty as servants was to have informed their master in good time to prevent his making mistakes. But what is to be said of the moral rights of an auctioneer who underpays his assistants, on the ground that their opportunities of making advantageous bids at his sales will compensate for the scantiness of their wages—an auctioneer who says, "My only chance of ever knowing whether these jewels are paste or diamonds is the offer you may choose to make"?

The Resident's duties at Burdwan were primarily those of an officer entrusted with the supervision of the revenues ; but he was also concerned with the courts of justice. Verelst gives us the following account of the local courts, and tells us "the like administration prevails in nearly all the provinces of Bengal".

*"Sudder Cutcherry.*—In this court are received all the land-rents and revenues of the province, all accounts relative to them adjusted, all purchases and sales of land and property confirmed, all differences between landlord and tenant heard and determined, and from hence all orders respecting the rents and revenues are issued.

*Buxey Dustore* [Bakhshi Dastur.]—This court superintends the conduct of all the forces, guards, and other persons [cxlvi] employed for the protection of the province in general, the prevention of thefts and disturbances of the peace of the inhabitants ; and all orders respecting such persons are issued from this office ; at the same time it provides for their pay and obedience.

*Fouzdarry.*—The jurisdiction of this court is wholly confined to criminal matters, and the judgment of capital offences.

*Burrah Adalat*<sup>81</sup>.—Is a court of meum and tuum for all demands above 50 rupees, and does not interfere in any claims under the amount of that sum.

*Ameen Dustore.*—Is, in a great measure, a court subordinated to the Sudder Cutcherry, as all complaints are first made to the former, and referred from thence to

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81. Adalat, a court.

the latter. They relate entirely to the business of the revenue, and the conduct of those employed in the collections.

*Chootah Adalat*.—Takes cognizance of all suits for debts not exceeding 50 rupees.

*Bazee Zemin Dustore*.<sup>82</sup>—Is a court for settling all differences relative to charity lands and other public supports. Each person's property in claims of this kind are ascertained, and from hence all orders respecting them are issued.

*Bazee Jumma Dustore*.—This court takes cognizance of adulteries, abortions, and other crimes, that more immediately concern the peace and happiness of private families, grants, for lands and public works for the accommodation of travellers, such as tanks or ponds of water, serais or resting places, etc., are issued from this court.

*Karidge*<sup>83</sup> *Dustore*.—The landholders' accounts, when settled, are sent to this Court for payment; and in such cases where the debtor is incapable of paying the amount, a power is lodged in this court to compromise the debt."<sup>84</sup>

It may be inferred that at Burdwan, prior to the advent of the English, no records were kept by these courts. Under the supervision of the English Residents, the proceedings and the evidence given were recorded, and the sentences inflicted were approved either by the Nawab or the Raja on the one hand and the Resident on the other.

Verelst's doings at Burdwan belong to the "days of small things." The concluding paragraph of the letter just quoted will bring this truth home to the reader.

[ cxlix ] "From the vicinity of Burdwan to the Presidency, I cannot think the appointment of a factory any ways necessary. One person to reside on the spot, who will, in conjunction with the Raja and his officers, sign all papers, and issue all orders which regard the collections, is fully sufficient, and which is at present the duty of the Council in rotation. A Supra-visor may, as he sees occasion, go there to settle and regulate any matters that may occur, or send his directions from hence. If it is urged that these gentlemen preside over the several courts of justice, and thereby relieve the poor, I must remark, that in so very large a district as this province, it is impossible to have the greatest part of the complaints brought to Burdwan. It is, therefore, customary to issue directions to the Sheikdars, etc., in the pergunnahs at the head of the petition, ordering them to enquire into it. Besides which as the gentlemen are obliged to inform themselves through the servants and Banyans appointed to each office, I do not think it so necessary to have that number, as one might equally well attend to causes of any consequence."<sup>85</sup>

No doubt "one person to reside on the spot" in so large a district as Burdwan does not afford evidence of an adequate internal administration, but, if on this ground we

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82. Bazi=Miscellaneous. Dastur=custom, practice, but also used to denote a subdivisional district, or group of parganahs.

83. Khiraj or Kharaj=tax, tribute.

84. Verelst : *View, etc*, Appendix, pp. 219-20. Cf. Long : *Selections*, No. 956.

85. Verelst : *Op. cit.*, Appendix, p. 219.



chose to abide by Macaulay's statement, it must be remembered that even after 1772, and indeed after 1781, other large districts in Bengal could but claim a solitary collector and his assisant. As to criminal judicature, Lord Macaulay's view might be more easily defended ; it was in this respect English energy most lamentably held fire ; yet, on the other hand, it was no small thing that, when the Company's servants in 1772, received the mandate to "stand forth as Diwan", they had for nearly eight years past a varied experience of revenue affairs gathered in the lands granted to them by Mir Kasim.

The following is Verelst's statement of the Net Revenues of Burdwan :—

May to April				Curt. Rs.
1760-1761.	Cash received.	..	...	607,482.
1761-1762.	do.	...	...	38,41,987.
1762-1763.	do.	...	...	39,49,167.
1763-1764.	do.	...	...	39,86,101.
1764-1765.	do.	...	...	36,29,789.
1765-1766.	do.	...	...	35,67,854.
1766-1767.	do.	...	...	42,88,171.
1767-1768.	do.	...	...	41,49,471.
1768-1769.	do.	...	...	39,48,037.

Verelst points out that in the first year, "only a small part of the revenue was brought into the Treasury", and also "the duties upon salt made within the province, which in former years made a part of these revenues, were, after the establishment of the Society in the year 1765, paid into the Treasury of Calcutta". <sup>86</sup>

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86. *View, etc.*, p. 72.

## CHAPTER VIII.

### The Grant of the Diwani of Bengal, Bihar and Orissa, 1765.

[cl] *I observed to him [Lord Chatham] that it was necessary for him to determine whether it was an object for the Company or the State ; for I was persuaded, if the State neglected it, the Company, in process of time, would secure it for their greater quiet and safety, exclusive of gain.* Walsh to Clive, 26th November, 1759.

Lord Clive arrived in Calcutta, on his second period as Governor, on the 3rd of May 1765, but in the past half year, the Calcutta Government, under Spencer's brief regime, had done much to increase the Company's power. Feeling that he was possessed of a mandate "to cleanse the Augean stable" Clive, but for an unfailing belief in his own personal power, might well have been dismayed by the thought he was about to pit himself against a Council which could credit itself with the completion of a difficult war, the increase of the Company's territory, and an improved treaty with the Subahdar of Bengal. A farman from the Emperor, dated December 29, 1764, had assigned to the Company "the country of Ghazipoor and the rest of the Zemindari of the Rajah Bulwant Singh, belonging to the Nizamut of the Nabob Shujah-ul-Dowla ; other regulation and government thereof we have given to their disposal, in the same manner as it was in the Nabob Shujah-ul-Dowla's. The aforesaid Rajah having settled terms with the chief of the English Company, is, according thereto, to pay the revenues to the Company".

[In February, 1765,<sup>1</sup> moreover, the old Nawab Mir Jafar had died, and his son, Najm-u-daulah on February 20th entered into a treaty by which he signed away one of the most important elements of sovereignty.

"IV. I do confirm to the Company, as a fixed resource for defraying the ordinary expenses of their troops, the Chucklahs of Burdwan, Midnapoor and Chittagong in as full a manner as heretofore ceded by my father. The sum of five lacks of sicca rupees per month for their maintenance, was further agreed to be paid by my father and I agree to pay the same out of my treasury, whilst the exigency for keeping up so large an army continues. When the Company's occasions [cli] will admit a diminution of the expenses they are put to, on account of their troops, the Governor and Council will then relieve me from such a proportion of this assignment as the increased expenses incurred by keep-

1. Mill says (*History of British India*, vol. iii, p. 250) that Mir Jafar, "after languishing several weeks at Calcutta, returned to Moorshedabad, loaded with disease, and died in January 1765." Mir Jafar seems to have returned to his capital on December 19, 1764, and on December 20 he ordered Nanda Kumar "to manage the business of the country and revenues." Mir Jafar died on February 6, 1765. Imperial Record Department: *Calendar of Persian Correspondence*, vol. i. p. 377. During the administration of Vansittart, Nanda Kumar's treacherous and criminal character had been exposed.

ing up the whole force necessary for the defence of the provinces will admit of : and, as I esteem the Company's troops entirely equal thereto and as my own, I will only maintain such as are immediately necessary for the dignity of my person and government, and the business of my collections throughout the provinces".

The second article bestowed on Muhammad Riza Khan the office of Naib Subah, in which was vested the management of the Subahdari, and of this trust he was not to be dispossessed without the consent of the Company.)

So affairs stood on Clive's arrival in May. Having set in motion his principal machinery of reform—the Select Committee,<sup>2</sup> Clive started up-country on June 25. He had already, on the occasion of a visit from the Nawab, turned a willing ear to the tale of how the Naib Subah had depleted the treasury of Murshidabad by payment of presents to the English who had come thither as a deputation on the occasion of the Nawab's accession. Clive's present business at the capital, however, was not to listen to complaints, but to prepare for the virtual cession of the whole civil authority of the Nawab to the English Company.

"Regulating the country government was the next object of our attention. We found the Nabob highly dissatisfied<sup>3</sup> with those plenary powers vested in Mahomed Reza Cawn, who by virtue of the treaty acted in quality of prime minister and enjoyed uncontrolled authority. This unlimited sway, lodged in the hands of a single person, appeared dangerous to the present establishment, which we thought it becoming to maintain, as having been formally ratified by the Governor and Council. To amend the very obvious defects in the treaty without reversing the principles on which it was founded, was consistent with equity, whilst it met with the Nabob's own approbation,<sup>4</sup> and the most effective means of doing this seemed to us to consist in an equal partition of ministerial influence. As Mahomed Reza Cawn's short administration was irreproachable, we determined to constitute him in a share of the authority, at the same time that we associated with him men of weight and character ; so that each became a check [ clli ] upon the other. Accordingly we fixed on Juggut Seat [Seth] and Roydullub [Rai Durlabh], for the reasons assigned in the Proceedings : and we now have pleasure to acquaint you that the business of the Government goes on with unanimity, vigour and dispatch".<sup>5</sup>

2. This Committee, which had been given extraordinary powers during a crisis Clive turned into a permanent organ of government. *Vide Mill : History of British India*, vol. iii, p. 275 (5th edition) 1858.

3. In the margin of the copy of Verelst's *View* in the possession of the present writer Archibald Swinton, who played no small part in the events of this period, writes against the above passage : "No doubt he (the Nawab) was ; but he had far greater reason to be dissatisfied with his situation afterwards."

4. Swinton asks : "Who gave away the Nabob's treasures, in the Nabob's name against his will, for the appointment of himself to plenary power, diametrically opposite to the Nabob's inclinations?"

5. Clive and the Select Committee to the Court, September 30, 1765. Hastings (Consultations, 11th July, 1772,) thus defines the office of "Naib Subah" or "Naib Nizam" : "According to its original constitution, (it) comprehends the superintendency of his (the Nabob's) education, the management of his household, the regulation of his expenses, the representation of his person, the chief administration of justice, the issuing of all orders and the direction of all measures which respect the government and

Ten years earlier, the idea of "regulating the country government" would have seemed to the Company's servants the dream of a madman. Lord Clive was now to regulate the affairs of the Mughal himself. The Company in England had expressed its disapproval of the recent acquisition of new territory, and therefore in the treaty between the Nawabs of Oudh and Bengal on the one hand and the English Company on the other, dated August 16, 1765, it was agreed :

"4. The King (Shah Aalum) shall remain in full possession of Korah, and such part of the province of Illah-abad as he now possesses, which are ceded to His Majesty as a royal demesne for the support of his dignity and expenses.

5. His Highness (*i. e.*, the Nawab of Oudh) Shuja-ud-Daula, engages in a most solemn manner to continue Bulwant Singh in the Zemindaries of Benares and Ghazepore, and all those districts he possessed at the time he came over to the late Nabob Jaffir Ally Khan and the English, on the condition of his paying the same revenue as heretofore.

6. It being firmly resolved to restore to His Highness the country of Benares and the other districts now rented by Bulwant Singh, notwithstanding the grant of the same from the King to the English Company ; it is, therefore, agreed that they shall be ceded to His Highness in the manner following :—*viz.*, they shall remain in the hands of the English Company with their revenues, till the expiration of the agreement between Bulwant Singh and the Company, being on the 27th November next ; after which His Highness shall enter into possession, the Fort of Chunar excepted, which is not to be evacuated, until the 6th article of this treaty be fully complied with.

7. His Highness shall allow the English Company to carry on a trade, duty-free, through his dominions".<sup>6</sup>

By articles of Agreement, dated August 19, 1765, it was arranged that the Nawab of Bengal, Najm-u-daulah, should pay to the Mughal [ *cliii* ] Emperor the sum of twenty-six lakhs of rupees per annum, in regular monthly payments of Rupees 2,16,666-10-9, the first payment to be made on September 1, 1765.<sup>7</sup> As the English Company were to be security for the payment of this sum, the Emperor Shah Alam, on August 12, had already made over to the Company,<sup>8</sup> "the dewanee of the provinces of Bengal, Behar and Orissa, from the beginning of the Fussal Rubby of the Bengal Year 1172 as a free gift and ultumgan [*altamgha*] without the association of any other person, and with an exemption from the payment of the customs of the Dewanee, which used to be paid to the court".

This grant of the Diwani necessitated a new agreement between the Nawab Najm-u-daulah. On September 30, the Nawab agreed to accept the annual sum of sicca rupees

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police of the provinces, the conduct of all public negotiations, and execution of treasuries, in a word, every branch of executive government."

6. Aitchison : *Treaties etc.*, vol. i, pp. 89-91.

7. *Op. cit.*, vol. i, p. 229.

8. *Op. cit.*, p. 227.

5,386,131-9-0 as "an adequate allowance for the support of the Nizamut".<sup>9</sup> Of this sum, Rupees 36,07,277-8-0 was to be expended on the maintenance of troops for "the support of my dignity only", and this expenditure was to be controlled, not by the Nawab himself, but by an official named in the treaty.

Lord Clive's estimate of the importance of the new acquisition is set forth in the following passage of the General Letter from Bengal to the Court of Directors, 30th September, 1765 :

"22. The perpetual struggles for superiority between the Nabobs and your Agents, together with the recent proofs before us of notorious and avowed corruption, have rendered us unanimously of opinion, after the most mature deliberation that no other method can be suggested of laying an axe to the root of all these evils than that of obtaining the dewanee of Bengal, Bihar and Orissa for the Company. By establishing the power of the great Mogul, we have likewise established his rights ; and his Majesty, from principles of gratitude, of equity and of policy, has thought proper to bestow this employment on the Company, the nature of which is the collecting of all the revenues, and defraying all the expenses of the army, and allowing a sufficient fund for the support of the Nizamut, to remit the remainder to Delhi, and wherever the King shall reside or direct. But as the King has been graciously pleased to bestow on the Company forever such surplus as shall arise from the revenues, upon certain stipulations and agreements expressed in the sunnud, we have settled with the Nabob with his own free consent that the sum of 53 lacs shall be annually paid to him for the support of his dignity and all contingent expenses, exclusive of the charge of maintaining an army, which is to be defrayed out of the revenues ceded to the Company by this royal grant of [ cliv ] dewanny<sup>10</sup> ; and indeed the Nabob has abundant reason to be well satisfied with the conditions of this agreement,<sup>11</sup> whereby a fund is secured to him, without trouble or danger, adequate to all purposes of such grandeur and happiness as a man of his sentiments has any conception of enjoying ; more would serve only to disturb his quiet, endanger his government, and sap the foundation of that solid structure of power and wealth, which, at length, is happily reared and completed by the Company, after a vast expense of blood and treasure.

"23. By this acquisition of the Dewanny, your possessions and influence are rendered paramount and secure, since no future Nabob will either have the power, or riches sufficient, to attempt your over-throw, by means either of force or corruption.

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9. Some misleading conclusions have been formed by writers who ignore the fact that this sum does not represent the Nawab's gross personal income, but what was allowed *out of the revenues* for "the support of the Nizamut."

10. Contrast this statement with the terms of the Agreement with Najm-u-daulah.

11. Swinton comments : "By this is to be understood that he would rather have this sum than less ; and, in short, that he consented to be called Nabob on these terms rather than not be Nabob at all. The next section gives a more just statement of the case, acknowledging that a division of power is impossible without generating discontent and hazarding the whole, and that all must belong to the Company he Nabob.

All revolutions must henceforward be at an end, as there will be no fund for secret services, for donations, or for restitutions. The Nabob cannot answer the expectations of the venal and mercenary, nor will the Company comply with demands, injurious to themselves, out of their own revenues. The experience of years has convinced us that a division of power is impossible without generating discontent, and hazarding the whole ; all must belong either to the Company or the Nabob. We leave you to judge which alternative is the most desirable and the most expedient in the present circumstances of affairs. As to ourselves, we know of no other system we could adopt, that would less affect the Nabob's dignity, and at the same time secure the Company against the fatal effects of future revolutions, than this of the Dewanny. The power is now lodged where it can only be lodged with safety to us, so that we may pronounce with some degree of confidence that the worst which will happen in the future to the Company will proceed from temporary ravages only, which can never become so general as to prevent your revenues from yielding a sufficient fund to defray your civil and military charges, and furnish your investment".

It is necessary to pause at this stage, in order to show that the momentous transfer of the office of Diwan from the Nawab to the Company was no original idea of Lord Clive.

In the General Letter to the Court, of December 31, 1758, the President and Council write (para 9) :

"The success in Bengal has acquired us so great a reputation at the Court of Delhi, that the Vazier has several times addressed himself to the President to use his interest with the Subah to [ clv ] comply with the Royal mandate in paying the revenue due to the Mogul from his Subahship ; and you will observe in the book of correspondence by letters from Setaub Roy the Vazier's agent, that the Court is extremely desirous of appointing the President the Collector of this revenue, amounting to 50 laack of rupees annually. The person invested with this employ, who is stiled the King's Duan, is the second man of rank in the kingdom ; such a dignity annexed to your Presidency would give extraordinary weight to the Company in the Empire, which nothing could be able to remove ; however, though repeated proposals have been made to the President, yet, at this critical conjunction, he has been under the necessity of evading them, and managing his answers in such a manner as to protract time in the expectation of a more favourable opportunity. The accepting this employ might occasion jealousy on the part of the Subah, and we are unwilling to cause him any dissatisfaction at a time when our small force is engaged another way, especially as you, Gentlemen, give us so little hopes for reinforcement from home".

The suggestion that the English should become Diwan thus originated in 1758 with the Mughal, and, as will be seen, it was pressed on the English again in 1761 and 1763. Lord Clive, however, had reasons for hesitancy over and above those explained in the foregoing extract. He had been, in fact, on the point of proposing to Pitt that the Diwani should be accepted in the name, not of the Company, but of the English Nation. On the 7th January, 1759, he wrote to Pitt :

"So small a body as two thousand Europeans will secure us against any apprehensions from either one or the other (Mir Jafar or Mir Miran) : and that in case of their daring to be troublesome, enable the Company to take the sovereignty upon themselves<sup>12</sup>. There will be the less difficulty in bringing about such an event, as the natives themselves have no attachment whatever to particular princes ; and as, under the present Government, they have no security for their lives or properties, they would rejoice in so happy an exchange as that of a mild for a despotic Government ; and there is little room to doubt our easily obtaining the Mughal's sunnud in confirmation thereof, provided we agreed to pay him the stipulated allotment out of the revenues, viz., fifty lacks annually. This has of late years been very ill-paid, owing to the distractions in the heart of the Moghul Empire, which have disabled that court from attending to their concerns in the distant provinces ; and the Vizier has actually wrote to me, desiring I would engage the Nabob to make the payments agreeable to the former usage ; nay, further, application has been made to me from the Court of Delhi, to take charge of collecting this payment the person entrusted with which is [ clvi ] styled the King's Dewan, and is the next person both in dignity and power to the Soubah. But this high office I have been obliged to decline for the present, as I am unwilling to occasion any jealousy on the part of the Soubah ; especially as I see no likelihood of the Company's providing us with a sufficient force to support properly so considerable an employ, and which would open a way for securing the Soubahship to ourselves. That this would be agreeable to the Moghul can hardly be questioned, as it would be so much to his interest to have these countries under the dominion of a nation famed for their good faith, rather than in the hands of people who, a long experience has convinced him, never will pay him his proportion of the revenues, unless awed into it by the fear of the Imperial army marching to force them into it.

"But so large a sovereignty may possibly be an object too extensive for a mercantile Company ; and it is to be feared they are not of themselves able, without the nation's assistance to maintain so wide a dominion ; I have therefore presumed, Sir, to represent this matter to you, and submit it to your consideration, whether the execution of a design, that may hereafter be still carried to greater lengths, be worthy of the Government's taking it into hand. I flatter myself I have made it pretty clear to you, that there will be little or no difficulty in obtaining absolute possession of these rich kingdoms and that with the Moghul's own consent, on condition of paying him less than a fifth of the revenues thereof. Now I leave you to judge whether an income of upwards of two millions sterling, with the possession of these provinces abounding in the most valuable productions of nature and art, be an object deserving of public attention ; and whether it be worth the nation's while to take the proper measures to secure such an acquisition—

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12. These assertions it is interesting to compare with Col. James Mill's "Scheme for an Expedition under the Imperial [ i. e., the Austrian ] Emperor for dethroning the Nabob of Bengál," drawn up in 1746. Bolts : *Considerations*, vol. iii, p. 16 *et seq.*

which, under the management of so able and disinterested a minister, would prove a source of immense wealth to the kingdom, and might in time be appropriated in part as a fund towards diminishing the present heavy load of debt under which we at present labour."<sup>13</sup>

[ clvii ] In 1761, the Emperor Shah Alam, on his way to Delhi, offered to Major Carnac, who was "in attendance on the stirrup", a confirmation of all existing privileges enjoyed by the Company and the grant of the Diwani, provided that the Company would guarantee the remission to Delhi of the Emperor's share of the revenues.<sup>14</sup> At that time, however, the strain between the English civil and military authorities had reached its highest tension, and Governor Vansittart, who characterised Carnac's conduct as "unbecoming and arrogant" was not prepared to accept a boon coming through such a channel. On the 9th March, 1763, the Court expressed its approval : "Your refusal of the Dewanee offered by the King" wrote the Directors, "was certainly very right, and we are well satisfied with the just and prudent reasons you give for declining that office". It may be mentioned that on March 11, 1762, in a letter of protest against Vansittart's act in substituting Mir Kasim for Mir Jafar as Nawab, Coote, Amyatt, Carnac, Ellis, Batson and Verelst, had urged the Court of Directors either to accept the offer Shah Alam had made of the Diwani, or to sanction an expedition to Delhi in order to subdue the rebels to the Emperor's authority. Holwell's comment on the first offer of the Diwani is as follows : "With regard to the offer of the Dewanee, the objections against it were strong and unanswerable, unless we could have been invested with the Soubadaary as well".

The letter in which the Court of Directors acknowledged the gift of the Diwani breathes their usual *sancta simplicitas*. They—on May 17, 1766—approve of the acquisi-

13 *The Life of Robert Clive, collected from the Family Papers communicated by the Earl of Powis*. By Major-General Sir John Malcolm, G. C. B., F. R. G. S., London, 1836, vol. ii, p. 121 *et seq.* Walsh, a relation of Clive's, by whom this letter was submitted gives an account of his interview with Pitt, in a letter dated 26th November, 1759. Pitt regarded the proposal as "very practicable," but of a "very nice nature." "He mentioned the Company's charter not expiring these twenty years ; that upon none of the late transactions it had been enquired into whether the Company's conquests and acquisitions belonged to them or the Crown, and the judges seemed to think to the Company : he said the Company were not proper to have it, nor the Crown, for such a revenue would endanger our liberties, and that you have shown your good sense by the application of it to the public. He said the difficulty of effecting the affair was not great under such a genius as Colonel Clive : but the sustaining it was the point, it was not probable he would be succeeded by persons equal to the task." "I observed to him that it was necessary for him to determine whether it was an object for the Company or the State, for I was persuaded that, if the State neglected it, the Company, in process of time, would secure it, that they would even find themselves under a necessity to do it for their greater quiet and safety, exclusive of gain. He seemed to weigh that : but, as far as I could judge by what passed them, it will be left to the Company to do what they please."

14. *Calendar of Persian Correspondence*, vol. i, Nos. 1291-92. Auber : *Rise and Progress*, vol. i, pp. 82-83. Holwell : *India Tracts*, p. 92.



tion as terminating a state of things in which the Company was gradually sinking to decline, while their servants in Bengal were "laying hands upon everything they did not deem the Company's property"; but they admitted that they were alarmed by the contemplation of added responsibilities. They write :

"We observe the account you give of the office and power of the King's Dewan, which in former times was 'the collecting of all the revenues, and after the defraying the expenses of the army, and allowing a sufficient fund for the support of the Nizamut, to remit the remainder to Delhi'. This description of it is not the office we wish to execute. The experience we already have had in the province of Burdwan convinces us how unfit an Englishman is to conduct the collection of the revenues, and follow the subtle native through all his arts to conceal the real value of his country, and to perplex and elude the payments. We, therefore, entirely approve of your preserving the ancient form of government, in upholding the dignity of the Soubah.

"14. We conceive the office of Dewan should be exercised only in superintending the collections and disposal of the revenues ; which, though vested in the Company, should be [ clviii ] officially executed at the Durbar, under the control of the Governor and the Select Committee. The ordinary bounds of which control should extend to nothing beyond the superintending the collection of the revenues, and the receiving the money from the Nabob's treasury to that of the Dewanny or the Company ; and this we conceive to be neither difficult nor complicated ; for that at the annual *Poonah* (punia) the Government settles with each Zemindar his monthly payments for the ensuing year : So the monthly payments of each Zemindar, which must be strictly kept up, and if deficient, the Company must trace what peculiar province, Rajah or Zemindar has fallen short of his monthly payments, or, if it is necessary to extend the power farther, let the annual *Poonah*, by which we mean the time when every landholder makes his agreement for the ensuing year, be made with the consent of the Dewan or Company. The administration of justice, the appointment of officers, zemindarrees, in short, whatever comes under the denomination of civil administration, we understand to remain in the hands of the Nabob or his ministers".

The Court of Directors imagined that all it behoved their servants to do was to lie beneath the tree and let the ripe fruit tumble into their open mouths. They would take the produce of the people's labour, and, in return, offer the people no protection against injustice and oppression. Fortunately for our national honour the Court was asking for what was impossible. The English were soon to learn that if they were to accept the revenues, they must undertake the care of the country.

It has been observed by James Mill that the dual system of government which the accession of the English to the Diwani for a time established was the "favorite policy of Clive, to whose mind a certain degree of crooked artifice seems to have presented itself pretty congenially in the light of profound and skilful politics".<sup>15</sup> The dual system

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15. Mill : *History of British India*, (5th edn.), vol. iii. p. 305.

presented itself in a different way to Clive on the one hand and Verelst on the other. While Verelst honestly believed that the ancient institutions could be revived and made to do good work, Clive regarded the Nawab's authority as a "name and a shadow," and when he spoke of "throwing off the mask" (i. e. declaring the Company Subah of the provinces), he, in as many words, admitted that his system was one of artifice. So far as the Nawab's power and wealth was concerned, he was aware that the English had, so to speak, sucked the orange dry, but he imagined that the skin and the pulp left behind on the table, would serve to delude the other foreign guests in Bengal into the idea that the English had not as yet devoured everything worth eating.

That the power had in reality passed into English possession, Clive never doubted. The Select Committee, in their Consultations of 10th [clix] September, describe the Company as having "come into the place of the country Government by His Majesty's grant of the dewanee". In a letter, dated 16th January 1767, the Governor and Select Committee write : "We are sensible that since the acquisition of the dewanny, the power belonging to the Soubah of these provinces is totally and in fact vested in the East India Company. Nothing remains to him but the name and shadow of authority". Under the system which Clive established the English were to do the work, but the Nawab's shadow was to cover it all, so that all that the English did was in outward seeming to emanate from the Nawab himself.

"This name, this shadow, it is indispensably necessary we should seem to venerate. Under the sanction of the Soubah, every encroachment that may be attempted by foreign powers can effectually be crushed, without any apparent interposition of our own authority ; <sup>16</sup> and all real grievances complained of by them can, through the same channel be examined into and redressed. Be it, therefore, always remembered that there is a Soubah ; and that, though the revenues belong to the Company, the territorial jurisdiction must still rest in the chiefs of the country, acting under him and this Residency in conjunction. To appoint the Company's servants to the office of Collectors, or indeed to do any act by any exertion of the English power, which can easily be done by the Nabob at our instance, would be throwing off the mask, would be declaring the Company Soubah of the provinces. Foreign nations would immediately take umbrage : and complaint preferred to the British Court might be attended with very embarrassing consequences. Nor can it be supposed that either the French, Dutch or Danes, would readily acknowledge the Company's Subahship, and pay into the hands of their (*i. e.*, the English) servants the duties upon trade, or the quit-rents of these districts which they have long been possessed of by virtue of the royal phirmauns, or grants from former Nabobs".

(The acquisition of the Diwani, it must be observed, had no immediate effect on the condition of British administration in the ceded lands (*i. e.*, Chittagong, Midnapur and Burdwan). The executive organised at Murshidabad for the collection of the revenues in what was now known as the "Diwani portion" had no jurisdiction in the three

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16. And yet the Nawab now had no effective army of his own."

districts of Chittagong, Burdwan and Midnapur, for the possession of which the Emperor Shah Alam had granted a separate *farman*, confirming thereby the past acts of Mir Kasim and Mir Jafar. The districts which made up the Diwani portion are enumerated by James Grant as follows : <sup>17</sup>

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| <p>[clx] 1. Rajeshay [Rajshahi].<br/>         2. Dinagepoore [Dinajpur].<br/>         3. Bheerbhoom [Birbhum].<br/>         4. Purneah.<br/>         5. Rungpore [Rangpur].<br/>         6. Dacca.<br/>         7. Nuddeah [Nadia].<br/>         8. Hidjeelee [Hijili].<br/>         9. Rajemahal.<br/>         10. Sylhet.<br/>         11. Jessore.<br/>         12. Mahmoodshay [Mahmudshahi].<br/>         13. Lushkerpoor [Lashkarpur].</p> | <p>14. Rokinpore [Rokanpur].<br/>         15. Edrackpore [Idrakpur].<br/>         16. Futtehsing.<br/>         17. Mahomedameenpore.<br/>         18. Silberis [Salburi].<br/>         19. Chunakly.<br/>         20. Bishenpore [Bishnupur].<br/>         21. Pachite [Pachet].<br/>         22. Tipperah.<br/>         23. Ichangurpore [Jahangirpore] elsewhere Grant writes "Jehangeer-poor."]<br/>         24. Zemindary Khurdeah.</p> |
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It has been noticed that Lord Clive had appointed at Murshidabad a Council of Control for the administration of the affairs of the Nawab. Muhammad Riza Khan, who had been appointed Naib Subahdar by the agreement of 1764, was entrusted by the English with the office of Diwan to the Company. This individual, to whom the Company allowed a prince's income of nine lakhs per annum, <sup>18</sup> has been credited by Grant with "honour, sagacity, moderation, *locally understood*," and is described by the same authority as "the great defaulter" <sup>19</sup>. Jagat Set (Seth), the head of the great Jain firm of Shroffs or bankers, was according to Grant "solely interested in the benefit of money dealings, which were great in proportion to the gross receipts of cash from the country".

The Native officers, however, were not suffered to do their work unchecked by the supervision of a resident British official. There had previously been Residents at the

17. Grant : *Analysis of the Finances of Bengal*. Included in the *Fifth Report from the Select Committee on the Affairs of the East India Company, 1812*, p. 336. It must be observed that No. 17 "Mahomedameenpore," as described by Grant, p. 391, is a partition of the old sarkars of Satgaon and Salimabad.

18. *Fourth Report of the Committee of Secrecy, 1773*, p. 8. Roy Durlabh was allowed 2 lakhs per annum, and Shitab Roy at Patna Rs. 99,996. The latter was also granted a monthly allowance of Rs. 25,000 by Lord Clive and the Select Committee. In 1771 the Court of Directors ordered Muhammad Riza Khan's salary to be reduced to five lakhs per annum.

19. *Analysis* [5th Report, p. 250]. Grant's opinion is that Muhammad Riza Khan, who he says, had confessed to having in two years incurred a balance of 2 krores of rupees of the Bengal revenues, was a wholesale plunderer! Grant also holds "that the actual system of revenue in Bengal was

Durbar<sup>20</sup> but, after the acquisition of the Diwani, such importance was added to the post that it practically became a new one, and was assigned to one of the most senior of the Company's servants. The duties of this officer were :<sup>21</sup>

[ clix ] 1. To "execute officially" the disposal of the revenues.

2. "To stand between the administration and the encroachments always to be apprehended from the agents of the Company's servants" and to "prevent the oppression of the natives."

3. To correspond monthly with the Select Committee through the channel of the President, and to forward copies of this correspondence with its enclosures to be sent to the Court of Directors.

At first the Resident at the Durbar<sup>22</sup> held also the lucrative post of Chief of Cossimbazar, but on 20th November, 1767, the Court sent the following order :

"Being convinced that the employments of Resident at the Durbar and Chief of Cassimbazar cannot from the importance and extent of the business of each department, be properly executed by one person, we, therefore, direct that they be from this time forward separated, and that some other member of Council be appointed to the said chiefship. We do not make this regulation from any failure of attention on the part of Mr. Sykes, with whose conduct we are perfectly satisfied. And in consequence of the extraordinary trouble and attention which the resident at the Durbar must necessarily have in the due execution of that important post, we direct that he be allowed four shares and a half (*i.e.*, in the commission of  $2\frac{1}{2}$  per cent. on the revenue collections);<sup>23</sup> but this is

from the beginning (1765) taken upon mistaken grounds. It is a baseless fabric reared in ignorance, corruption, chicanery of the natives, intended to conceal from superficial popular view or perhaps ultimately to destroy the symmetry, convenience and simplicity of the outward structure."

20. Luke Sraffton held this office after Plassey, and was succeeded in it by Warren Hastings; the office is recognised by the Treaty with Mir Jafar, 10th July, 1763, Article VII.

21. *Vide Verelst's View, etc.*, Appendix, p 136-37.

22. The first to hold the newly constructed office was Francis Sykes afterwards created a baronet. In addition to his official salary, he in two years received £35 757-18-0 as commission on the revenues, about £6,200 from the *mathaut*, or additional cesses, and close on £2,000 in complimentary donations at the time of the *punia*. He enjoyed a sumptuary allowance of £4,450 and a residence at Ma dapur in the suburbs of Murshidabad. He had also been a private trader on an extensive scale. For the resident's sumptuary allowance of Rs. 1,000 per mensem, see Long : *Selections*, No. 801.

23. The history of this commission is as follows : On November 20, 1767, the Court of Directors, in forbidding their servants to take part in inland trade and condemning their salt monopoly, directed that an allowance of 1'125 per cent commission on the Diwani revenues, which had hitherto been received by the Governor, as compensation for his relinquishing his share in the salt trade, should cease on 1st September, 1767. The Court continue : "As the trade of our servants is to be confined to the articles of import and export only, in which they will be considerably affected by the great demands for extending the Company's investments and considering the great increase of business in which our principal servants are necessarily engaged, and which demand their utmost care and attention, we are come to a

to be [ clxii ] understood to be in full, and instead of such shares as are assigned, as above mentioned, to his rank in Council, or as a member of the Select Committee."

In addition to the general supervision of revenue affairs, the Resident at the Durbar inspected the Courts of Justice at Murshidabad. The Resident and the Nawab received appeals from the district courts, caused inquiries to be made, and ultimately decided the causes so brought before them. Sykes seems even to have increased the number of courts at Murshidabad. In October, 1770, Muhammad Riza Khan in company with the Resident at the Durbar, asked for the President and Council directions as to the administration of justice. In reply the Governor and Council gave it as their opinion that the administration of justice should be continued "on the same footing as formerly, but that the Council of Control should interfere as there should be occasion," adding that "every transaction relative to the Government should ultimately come before the Council." The Murshidabad Council of Control therefore resolved :

"That in all criminal cases throughout the province, the trial should be transmitted to them for their approbation before the sentence be executed ; that all causes relative to property in land and to the revenue, shall be tried in the country Government courts ; that two courts should be established by the Council of Control, consisting of all the members of Council, to revise the proceeding of the country courts, and finally to determine upon them."<sup>24</sup>

resolution to give them a reasonable encouragement to exert themselves with zeal and alacrity in their several departments, but which they are to look upon as a free gift from the head of their employers to them annually, so long as the present revenues shall remain with the Company, and their behaviour shall continue to merit such a reward. That you draw out an annual account of the sums received from the Dewannee, deducting thereout the stipulated payments to the King and the Nabob, and the allowance of the Nabob's ministers, also the revenue of the provinces of Burdwan, Midnapur and Chittagong, and the Calcutta pergunnahs from which are to be deducted Lord Clive's *jaghire* and the ordinary charges of collection. Upon the amount of the said nett revenues, you are hereby indulged to draw a commission of  $2\frac{1}{2}$  per cent." The sum so obtained was to be divided into 100 shares, which were to be distributed as under :—

The Governor	...	...	...	31	shares.
The Second in Council	...	...	...	$4\frac{1}{2}$	„
The rest of the Select Committee not having a Chiefship	...	...	...	$3\frac{1}{2}$	„
„ „ Council	„	„	...	$1\frac{1}{2}$	„
The Resident at the Durbar	...	...	...	$4\frac{1}{2}$	„

The Chiefs of Cossimbazar, Patna, Dacca and Chittagong were not to have shares. The Court reserved to itself the appropriation of the remaining shares, a reservation which the Select Committee disregarded. In the benefit of this commission, the principal military officers were also included. The whole subject is dealt with in great detail in the *4th Report of the Committee of Secrecy, 1773*. I may take this opportunity to say that I do not see how Mr. P. E. Roberts (*The Cambridge Modern History*, vol. vi, p. 566) arrives at the figures he gives as to Verelst's salary and commission. Verelst's salary, according to this letter from the Court, was £3,000 per annum, not £4,800 as stated by Mr. Roberts, and Verelst's shares in the commission must have reached to more than the £45,800, mentioned by him.

24. Proceedings of Murshidabad Comptrolling Council, October, 1770.

It is, therefore, not possible to say with Lord Macaulay even in regard to the Diwani portion, that "the police, the administration of justice, the maintenance of order" were left to "the Naib Subahdar." It would, however, be too much to say with James Mill, that "the phirmaun (*farman*) of the Dewannee, which marks one of the most conspicuous eras in the history of the Company"<sup>25</sup> constituted "them masters of so great an empire, in name and in responsibility, as well as in power."

[ clixiii ] Lord Clive's metaphor of a man wearing a mask aptly characterises the situation. The Court of Directors were insisting on their servants in Bengal maintaining an attitude of non-intervention in the administration, while their servants, anxious to venerate the shadow of the Nawab's no longer extant authority, were actually ruling under the guise of superintending or giving advice. The mask was not discarded till long after the whole world knew whose was the face behind it.

The net revenues of the Diwani portion in these early years are given in the *Fourth Report of the Committee of Secrecy, 1773*.

		1765-1766	1766-7	1767-8	1768-9	1769-70	1770-1	1771-2
		£	£	£	£	£	£	£
Munshidabad	...	937,864	1,149,469	1,091,823	1,138,629	962,730	820,438	1,227,345,
Bihar		150,854	6,68,180	551,110	623,084	459,246	446,175	461,461

It may be observed that the Select Committee, and not Council, represent the Company's supreme authority in matters of revenue. Clive had undoubtedly carried on the activities of the Select Committee beyond the term set for its existence, but, in their General Letter to Bengal, 12th January, 1769, the Court of Directors wrote :

"9, We have experienced such great advantage from the establishment of a Select Committee that, although the ends for which it was first instituted are happily obtained by the establishing of peace, tranquility and subordination, yet we find the nature of those important charges which now fall under the management of our servants requires that they should be conducted by a small number, and we therefore confirm the Select Committee, and their department and powers are to be as follows :—

"10. They are to conduct everything that relates to the Country Government, either with respect to the Duannee or the Company's political interests with the neighbouring powers together with the military operations depending thereon. They are to negotiate with the Soubah and the country powers, but to conclude no treaty of

25. James Mill : *History of British India*, vol. viii, p. 286. On December 29, 1767, the Select Committee write to the Resident at the Durbar -

"We are sorry to observe in these regulations you have made the Honourable Company coadjutors to the Government, whereas it has ever been our intention to acknowledge the latter as principals, and content ourselves with enjoying our privileges under them, in like manner with the other European nations trading in Bengal. This we now repeat, and desire that you will be no means, in future, to make the Company appear as a principal in any measure or act of government." Bolts: *Considerations*, Appendix A., vol. iii, p. 168.

Commerce or alliance without the approbation of the Council at large. They are to superintend the collection of the revenues arising from the Duannee, but without the power of disbursing them, nor do the revenues arising from the company's other possessions fall under this jurisdiction, their general superintending power ceased with the abuses that gave rise to that power with which they were entrusted; and all other branches of the Company's affairs fall under the General Department. The members of this Committee are to stand conformable to Lord Clive's appointment, viz :—

Harry Verelst	...	...	President
John Cartier	...	...	Second
Col. Richard Smith...	..	..	Third, but not to rise
Mr. Francis Sykes	...	...	Fourth
Mr. Richard Becher..	...	...	Fifth.

[ clxiv] "11. We have in the foregoing paragraph directed that the military operations shall be conducted under the orders of the Select Committee but the Supreme Military power is vested in the Board at large, conformable to the usual practice. We have already in our letter of 24th December, Para, 54, expressed our sentiments on the nature of your power over the military, not only that it is supreme, but that you may delegate your authority to any civil servant you please, and that the highest officer in our army must obey that civil servant in the same manner he is bound to obey the orders of the President and Council; and, upon any doubt or disobedience, or indeed for whatever cause may appear sufficient to the majority of the Council, they may dismiss any officer, be his rank what it will, without assigning such officer any other reason but your own pleasure, reserving the justification of your conduct to us, from whom you derive authority, and to whom alone you are accountable.

"12. Upon the decease or coming away of Colonel Smith, no other military officer is to succeed him in the Select Committee but the Commanding Officer for the time being is to be consulted upon military affairs only, at which time he is to have a seat and voice at the Board as the 3rd in the Committee".

It will be convenient to conclude this chapter with a succinct statement of the Company's position in Bengal at the end of the year 1765.

1✓ The Company had acquired the right to defend by military force the three Mughal provinces of Bengal, Bihar and Orissa. Within those geographical limits there were vast districts into which the Mughal arms had never penetrated, *e. g.*, the wild western lands. Only a part of Orissa came into the English sphere, for the Marathas remained masters of Cuttack till 1803. In the East the Assam Valley remained independent, Goalpara or Rangamati representing the most advanced outpost of the Empire. Assam was not annexed by the Company till 1826, and Kachar till 1830, Cooch Behar was annexed in 1773, but subsequently became a feudatory sovereign State. By the surrender of Benares in 1765, Clive had given proof of his sense of the just extent of the English occupation. In 1762 Eyre Coote, Carnac and three members of Council (of whom Verelst was one) had prepared to march the English forces to the gates of

Delhi, but Clive, referring to his bold plan, <sup>26</sup> wrote (September 30, 1765): "My resolution, however, was and will always be to confine our acquisitions, our conquests, our possessions to Bengal, Behar and Orissa ; to go further is in my opinion so extravagantly absurd that no Governor-General, no Council, in these times can ever adopt it unless the whole system of the Company's interest be first entirely remodelled". <sup>27</sup>

[ clxv ] 2. Calcutta was held in free tenure and in the adjacent Twenty-four Pergunahs the English held the position of Zamindar.

3. In the Ceded Districts, *i. e.*, Burdwan, Chittagong and Midnapur, they had been in the direct management of the revenues, and had directly administered every function of government, save that of criminal justice (which, however, they had supervised from 1760).

4. For the rest of Bengal the Company was Diwan ; and as the Nawab was a minor, they had appointed a Naib Subah of their own preference, and every matter of importance came before the Resident at the Durbar for decision.

5. As Diwan the Company not only administered the land revenue, but controlled and collected customs, its commercial supremacy was now beyond all question.

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26. Holwell : *India Tracts*, p. 97.

27. Elphinstone : *Rise of the British Power in India*, p. 447.



## CHAPTER IX.

### THE ADMINISTRATION OF HARRY VERELST

[clxvi] On the 26th of January, 1767, Clive departed from Fort William, leaving his friend Harry Verelst to succeed him in the Presidency and Governorship of Bengal.

According to the accepted version of the history of the English in Bengal, the Company remained content with the gift of the Diwani in 1765, and it was not until 1772 that any attempt was made to set up a competent English administration in Bengal. To quote Lord Macaulay again "the only branch of politics about which the English functionaries busied themselves (*i. e.* up to 1772) was negotiation with the native princes. The police, the administration of justice, the details of the collection of the revenue, were almost entirely neglected". From the previous chapters of the present work it will have been seen that this view ignores altogether the history of the Ceded Districts of Bengal, where the Company, from the very first moment of their possession, had been exceedingly active in the matter of the details of the revenues. It is not possible to defend Macaulay's statement by pleading that the Ceded Districts were comparatively of small account. Again if stress be laid on the fact that even in the Ceded Districts the authority of the Nazim in criminal justice was maintained, it must be replied that in this respect Macaulay's choice of the year 1772 is indefensible, for the Nazim retained that last vestige of sovereign power until the time of Lord Cornwallis. After giving weight to the consideration of the history of the Ceded Districts, the question remains : How far can it be asserted that Macaulay's generalisation is true of the Diwani portion ?

It has been seen that in 1765, Nanda Kumar (popularly known as Nuncomar) whom the old Nawab Mir Jafar had selected to hold the office of Deputy or Naib Subah, was displaced, and Muhammad Riza Khan appointed in his stead. To Muhammad Riza Khan, Macaulay says, "the collection of the revenue, the administration of justice, the maintenance of order were left." This statement, however, is very far from representing the facts ; for in the first place, the Company established a powerful functionary of their own at Murshidabad. It is true that until the details of the business were better understood, this functionary, the Resident at the Durbar, relied on the Naib Subah's information, and sedulously employed the Naib Subah as the ostensible principal in business affairs ; but, in actual practice, the Resident saw to it that, when the will of Company and the will of the Country-Government were at issue, the will of the Company prevailed. In the second place, it must be observed that, with the express purpose of checking the influence and power of the Naib Subah, the Select Committee at Calcutta set over Muhammad Riza Khan a Council of Control. In the administration of justice, it was so arranged that every transaction of importance should come before the attention of the Resident at the [clxvii] Durbar, and in 1769 (15th September) the Court of Directors authorised Commi-

ssioners to "make strict and speedy enquiry into the proceedings of the courts of justice throughout their settlements," and provided "that if any extraordinary powers have interfered to interrupt the course and administration of justice, they should without delay, correct all such abuses ; and in particular . . . . they should procure the entire abolition of the ancient custom of withholding under the name of chout, a large share of all property recovered in the courts ; and that if they should find the established courts so imperfectly constituted as not to be adequate to the right administration of justice, they should apply to the Government and obtain firmans for erecting such new judicatures as should appear most adequate to that purpose".

In regard to the collection of the revenue, the theory of the conjoint Government was illustrated by Lord Clive and the Nawab taking their seats together in 1765 on the musnud at the *punya*, *i. e.* the annual meeting of ceremony of the chief revenue officer with the chief revenue payers. It would, however, be a gross absurdity to conceive it as even possible that the Company could have taken over the administration of the revenues of the Diwani portion with the ease with which the incoming manager of a London theatre today takes over the management from his predecessor. The revenues were not only in themselves a subject of almost infinite complication and difficulty, but for years past their administration had been rendered almost desperate by oppression in some places and absolute neglect in others. The only persons who could throw light on this dark subject were the native officers, and they, realising that when once their inherited skill and concealed sources of information had been exposed, would be liable to dismissal, were in no hurry to afford the explanations required of them. Having accepted the Diwani, or general control of the revenue collections, the English therefore deliberately adopted a policy of *festina lente*. They felt that in the Ceded Lands, they had already benefited by an experience which in the course of time they might apply to the lands of the Diwani Portion, but for the present they resolved to avail themselves of the services of a Naib Diwan, and to collect their revenues by means of the indigenous machinery of the aumils, tehsildars, etc. etc. Such delay as there was in applying "direct" measures to the Diwani portion is to be explained, not merely by the reluctance or inability of the Company to substitute English for Native collectors, but by the anxiety of the Company to avoid the great expense of the notoriously unpopular measure of an exact valuation of the lands by an actual survey. So long as faith was placed in the farming system or conjectural valuations on the basis of recent accounts so long "direct" administration was bound to tarry in its coming. When, however, the Comptrolling Council of Revenue at Murshidabad was instituted in 1770, the Naib Diwan at once appears in the Consultations, not in the character of a representative of an independent country ruler, but as a Company's salaried servant.

There can be no doubt that Verelst regarded the system of Government inaugurated by Clive as not only the best but as the only possible one under which the Company could maintain its privileges. For Clive the Nawab's government was but a "masque", a "shadow", a "name"; [clxviii] for Verelst the Nawab's power was something more akin to a reality ; and with earnestness and eloquence he pleaded with

the members of his Council that every symbol of the Nawab's independent rule should be treated as sacred. Yet even Verelst saw clearly that circumstances, rather than intentions deliberately formed, had compelled the acceptance in 1765 of the Diwani declined by the Company in 1760, and he saw too the grave evils involved in a state of double government. Writing on December 16, 1769, he says: "Our circumstances impelled us forward, and the grant of the Dewanny became as much an object of necessity as it was of advantage. Thus we insensibly broke down the barrier betwixt us and government, and the native grew uncertain where his obedience was due. Such a divided and complicted authority gave rise to oppressions and intrigues unknown at any other period; the officers of government caught the infection, and being removed from any immediate control, proceeded with still greater audacity. In the meantime we were repeatedly and peremptorily forbid to avow any public authority over the officers of government in our own names, and enjoined to retain our primitive characters of merchants with most scrupulous delicacy. The consequences are but too evidently exemplified in the decline of commerce and cultivation, the diminution of specie, and the general distresses of the poor: a train of evils which could have only sprung from the above causes, since every advantage of a long and uninterrupted tranquility had been on our side".<sup>1</sup>

In the meanwhile, however, the marked improvement of the revenues in the Ceded Lands was leading the Court of Directors to modify their original opinion that their English servants were absolutely unfit for revenue work, and also to depart from their policy of non-interference with the native agents in the lands of the Diwani portion. The extent to which the Court of Directors were now ready to criticise the administration of the country powers and to urge its own servants to intervene may be indicated by the following passage from their letter of 11th November, 1768: <sup>2</sup>

"11. It gives us great satisfaction to see that the Dinagepur [Dinajpore] balance has not arisen from a depopulated or oppressed state of the country, but solely from the villainy, profusion, and folly of the Rajah and his Ministers. We cannot suffer such a depredation of the revenues, and shall not think the ministers to do their duty, if the balances of Dinagepore, Houghley and Purnea are not all recovered, and we are astonished at the lenity of the Nabob and Mahmud Reza Cawn in not having made some severe examples of [clixix] these great offenders. There has always been a most dishonourable practice of fining for crimes—which is unbecoming all well administered Governments, because the excess of the crime is an exemption from punishment, that is to say, if the farmers and governors exact by oppression enough to stop the Court of

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1. Verelst: *View, etc.*, Appendix, p. 122. In their letter of March 16th the Directors expressed their disapproval of a suggestion made by Lord Clive that the Governor should make an annual tour through the provinces. They write: "The majesty and dignity of the Government still resides in the Nabob and his ministers, and they are known to the inhabitants as the power to whom they are accountable. Great violence or oppressions will most probably reach the ear of the Resident at Durbar who can immediately exercise his influence to get them redressed. But, if the Governor carries with him in his tour the authority of the State, it gives an idea of divided government."

2. By the *Lioness*.

Justice against them, they escape and the example remains to others to do the same. The Nabob and his Ministers should early in their administration have made some severe examples, not by pecuniary mulcts, but by inflicting the severest punishment the custom of the country permits ; then others would have been deterred ; and, if they suffer Merza Souchat Roy and the Dinagepore ministers to escape the hand of justice, it will be such a relaxation of government as will be productive of many bad consequences. The comparison between the state Dinagepore under a fixed government and Purnea under almost annual change, the affluent state of the talooks in Burdwan compared with the yearly experience Mr. Rumbold has had in Bahar, all point out the great utility of letting the lands on long leases ; this, which has been so frequently recommended to you, you nevertheless omit, and particularly on this occasion wherein you are highly culpable. We mean in the Burdwan province, the value of which being now so thoroughly investigated, ought immediately to have been farmed out on long leases. We direct you to practice it in future in Burdwan, and would have you recommend it to the Nabob and his ministers to do it for the other parts of the country where the value of the lands has been ascertained.

“12 For the recovery of the large ballance at Dinagepore there seems to require nothing but severity to those ministers of the Rajah who have abused their power. Purnea requires, not only the punishment of Souchat Roy, but a thorough investigation, such as has been made in Burdwan, and a long continued protection to restore the country from the miserable state to which a succession of rapacious governors have reduced it. We hope one or more of our most experienced servants have been engaged in this, and they may be assured of distinguishing marks of our favour, if they acquit themselves to our satisfaction”.

On June the 30th, 1769, the Directors set their signatures to a letter, which they conceived to be of so great an importance that they engaged a special ship, the *Lapwing*, to carry it to Bengal. The contrast between this letter and the laconic acceptance of the Diwani scarcely five years earlier is most marked. The suggested changes in the Faujdari Courts, the native law of inheritance, hoarded coin, etc, are significant of the transference of sovereign power in Bengal.

“13. We have attended to the several informations and proceedings on the subject of the revenues, and from the result of our [ ~~clxx~~ ] observations we see reason to flatter ourselves that with care and industry great improvements may be made in the Duannoe collections. We find the revenues of the Calcutta lands, as well as of Burdwan, Midnapore and Chittagong, have been considerably augmented, and this encrease gives us a sensible pleasure, because we perceive the number of inhabitants have encreased at the same time, which we regard as a proof that they have found in those Provinces, a better security of their property and relief from oppressions ; and it is with particular satisfaction we can attribute these advantages, to their being more immediately under the Company’s management, and under the constant and minute direction of our covenanted servants.

The like abuses which have been corrected in these districts, are still severely felt, thro' all the Provinces of Bengal and Bahar, where the numerous tribes of fougedars, aumils, sikhars, &c. practise all the various modes of oppression which have been in use as long as the Moorish Government has subsisted. To correct abuses of so long a growth, will require much time and industry ; and, above all, a patient and moderate exertion of the powers invested in us by the grant of the Dewannee ; for we do not mean, by any violent and sudden reform, to change the Constitution, but to remove the evil by degrees, by reducing that immense number of idle sycophants, who, for their own emolument, and that of their principals, are placed between the tenant and the Public Treasury, and of which everyone must get his share of plunder, the whole mass of which must amount to a most enormous sum : among the various informations we have received on this subject we have particularly attended to Mr. Sykes' letter relating to Dinagapore, entered in your Select Committee's Proceedings of the 10th February 1768. This letter exhibits, at one view, a very ample description of the abuses we are speaking of, and which we wish to eradicate.

"14. Our intention is to proceed in this work without taking off from any of those profits and emoluments, which have usually accrued to the zemindars, who have inherited lands from their ancestors, much less to add any thing to the rents to be collected from the tenants ; on the contrary we mean to better the condition, both of the one and the other, by relieving them from many oppressions, which they now labour under.

"15. But a plan of reformation, of so extensive a nature, cannot be effected by one man, it must be the constant attention of many ; and for this purpose, we have resolved to establish a Committee, of some of our ablest servants, for the management of the Dewannee revenues at Muxadavad (Murshidabad), for the Bengal Province, and at Patna, for that of Bahar.

"16. The Gentlemen to be so appointed, shall be Comptrollers for the management of the Duannee revenue under your direction, and they are to have so many other of our junior covenanted [ cxxx ] Servants for assistants, as from time to time may be found necessary to be sent into the several Provinces, to correct abuses and maintain the intended reformation.

"17. The object of this Council must be first to inform themselves of the real state of the collections in every part, that is to say, what rents are at this time actually paid by the tenants, and what was paid formerly, what is the nature of the cultivation, and what the chief produce of each district ; and whether, in that respect, there seems a prospect of improvement. They are next to inform themselves of the amount of the charges of collection for some years past, in as particular a manner as possible ; and you are then to judge how many of the aumils and other officers, among whom those immense sums have been divided, may be spared. This saving, as far as it can reasonably be carried out, at the same time that it will be a profit to the Company in point of Revenue, will likewise be a relief to the the tenant, for it cannot be doubted

but that these numerous instruments of power lay the inhabitants under contribution in various secret ways, over and above what appears upon the face of the accounts.

“18. In this information you are to proceed with a moderate, steady and persevering spirit of enquiry, looking rather to the prevention of frauds for the future, than to the punishment of those offences which have already passed, and which, if not justified, are at least much palliated by the immemorial custom of the Moorish Government.

“19. The Council so to be appointed at Moorshedabad and Patna, are to have the controul of all the Business relating to the revenue, but Mahmud Reza Cawn or some other principal person of the Country must be appointed Naib Duan for the Bengal Province (that is the Company’s Deputy) and all the business must be carried on through the Naib and under his seal and signing, and in like manner Shitabroy, or some other principal person at Patna, for the Bahar Province.

“20. The Council of Revenue are to sit daily or as often as may be necessary for the most minute attention to this important branch of business. The Naib is to give his advice and opinion upon the measures necessary to be taken, the officers and collectors requisite to be sent to the different districts, and the orders and powers to be given them, but the Council are to consider and determine the whole and no appointments are to be made, nor the Naib’s seal put to any orders without their approbation, and copies of all such orders and appointments are to be entered upon their diary or a book apart, and to be transmitted regularly to England.

“21. We have said in a former part of this letter, that we have no view to prejudice the rights of the zemindars, who hold certain [ clxxii ] districts by inheritance, but when any of these die without heirs, the lands are to be let for a term of years and upon such conditons as may encourage improvements in the cultivation. In like manner where lands lie waste you should propose terms for settling them giving the undertakers every advantage possible to enable them to proceed in a work so beneficial to the community in general and yeilding to the Company in process of time a certain increase of revenue.

“22. To sum up the whole of this subject in few words :—our meaning is to save what we can of the long salaries now paid to idle dependants appointed to nominal but useless offices by the Country Government, and to lead you to such a knowledge of the real state of the rents and cultivation of the several districts as may enable you to keep the tenants free from imposition and extortion, and to give every possible encouragement to the husbandman and the manufacturer.

“23. The annual Reduction of the Coin is certainly one great source of oppression for it puts it into the power of the collector to charge the tenant with what discount he pleases upon all the money collected under pretence that the Rupees are of a former date, although equal in weight and fineness. But having wrote you fully on this subject the 11th November last we refer you to those directions and hope that you have succeeded in your endeavours to reform this arbitrary practice.

"24. In answer to what we wrote you in our letter of the 16th March 1768, concerning laws of inheritance for the better security of private property, you refer us to a report from Mr. Sykes and the Ministers at Murshedabad, and we find from Mr. Sykes' letter (entered upon your Select Committee Proceedings of the 6th October 1768) that he has not been acquainted with any instances of the estates of deceased persons being seized by the Government, but that whatever confiscations of this nature or other fines may have accrued are brought to the public account, and are a part of the revenue let out under the title of the Fougedary of Murshedabad.

"25. We apprehend this to be a revenue of a very dangerous nature ; for, if the decision of the Fougedar against the estate and property of individuals are to bring profit to himself, it may fairly be supposed that his judgment will be biassed by self-interest.

"26. What we wrote you on this subject in our letter of the 16th March 1768 <sup>3</sup> we particularly intended to lead to a reform of that practice, which we understood prevailed under the Moorish Government, of confiscating to the Nabob's use the whole estate of deceased persons who had at any time been employed in the service of the Government, which practice we suppose [ clxxiii ] had its original in this sort of reasoning—that as these Officers during their administration did certainly abuse their trust and make their fortunes out of the public money, so it was just that the Government should take it again at their death.

"27. But as this custom, as far as it prevails, must be productive of various acts of injustice and oppression, and must naturally occasion money to be hoarded and secreted in such manner as perhaps never to be brought again to light, to the great detriment of the general interest of the community, we therefore wished the practice to be totally abolished and the whole country to be acquainted by public advertisement that no man's property is to be touch'd without due course of law, that where any man is detected and convicted of defrauding the public he shall be punish'd severely and obliged to make ample reparation, but that this should not be attempted by the arbitrary will of any minister.

"28. Such an assurance might we hope be the means of opening some hoards of money and thereby assisting the Currency of the Country.

"29. Before we close this subject we cannot help remarking that there seems to us to be great danger and impropriety in having the powers of revenue and the powers of justice in one, and the same person, which seems to be the case in the Officers of the Fougedary, and, as we apprehend, in most other of the public offices of the several districts. This will be an object worthy of further enquiry and if the case is as it appears to us those powers should be separated and distinct lines drawn.

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"35. The vast increase of charges in every department is another object requiring extraordinary powers of reformation, and the establishment of a better mode of collecting

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3. See *Bengal: Past and Present*, vol. xi, p. 226.

the Duannee revenues no less so, not only as it immediately affects the Company's interests, but as being essential to the ease and happiness of the people, the security of their property, and the consequent encouragement of cultivation and manufactures.

"36. The directions we have hitherto given upon these important points have produced in return many arguments but few effects, and as by this mode of proceeding we may never be able to establish the necessary regulations we have resolved to appoint Commissioners to proceed to India to carry our orders into execution without loss of time.

'37. We have accordingly appointed Henry Vansittart, Luke Scrafton, and Francis Forde Esqrs. to be our Commissioners for the said purpose with powers as expressed more fully in their Commission which will be notified to you upon their [ clxxiv ] arrival. But that you may be acquainted in general with the nature of it, you are to understand that the Government of all the Settlements is left in its usual course and channel, but the Commissioners have a superintending and controuling power over the whole in like manner as if we the Court of Directors were ourselves present upon the spot ; and they are to proceed from Presidency to Presidency to make the desired Orders and Regulations. They will advise with you so far as they judge necessary upon the several matters which they shall be instructed or shall think fit to take under their consideration ; and, as they are fully acquainted with our sentiments upon every subject, they will explain more particularly our designs and wishes, which we are persuaded you will adopt upon conviction, without putting them to the necessity of making use of the authority with which they are invested.

"38. The union of interests between the nation and the Company by the participation of revenues under the present agreement with the Government having made us in some measure responsible to the public for our conduct, it became necessary that His Majesty should be informed of our intention in appointing this extraordinary Commission, and we have had the satisfaction of receiving the Royal approbation with a strong recommendation to pursue every measure for the reform of abuses and the due management of the important interests which we have in charge in the several parts of India".

H. M. frigate, the *Aurora*, on which the Commissioners mentioned in the foregoing paragraphs embarked, September, 1769, reached the Cape, and sailed from thence on St. John's day, December 27th. It would seem that the Captain, Lee, disregarding Vansittart's protest, took the risk of making for the Sofala Gulf at a particularly dangerous season of the year. After leaving the Cape, the Frigate was never again heard of '4

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4. With the Commissioners perished the Rev. William Hurst, a man of great scientific attainments (*Vide Hyde: Parochial Annals of Bengal*, pp. 133-4); Midshipman Pitcairn, the discoverer of the island that bears his name; Falconer, the author of a poem called the *Shipwreck*, and Arthur Vansittart, a son of the Senior Commissioner. *Vide Grand: Narration of the Life of a Gentleman long Resident in India* (Calcutta Historical Society's reprint, 1910, pp. 35 and 276: *Gentleman's Magazine*, vol. xli. (1771) chronicle. p. 190.)



The story of what befell the Directors' instructions belongs to the chapter in which the administration of Governor Cartier will be reviewed.

Having sent out their Commissioners in 1769, on the 23rd March of the following year the Directors prescribed rules for the conduct of their affairs in Bengal by the normal agency of their Governor and the Select Committee and Council.

"179. Having taken into our most serious consideration the magnitude and importance of the management of our affairs depending on your Civil Establishment, and that the administration thereof may be conducted to the greatest advantage [clxxv] of the Company and the prosperity of all under their protection, we have fully instructed the Commissioners to carry the following Resolutions into execution :—

That with the Governor and exclusive of the Military Commander the Council of Bengal shall consist of nine members and no more.

That none of the Council be permitted to act as Chiefs of any of the Subordinate factories, but shall all constantly reside at Calcutta, the Resident at the Durbar (if that office shall be filled by a Counsellor) and the Military Commander excepted.

That no member of the Council shall have any employ annexed to that Station, but that all offices be executed by the senior servants not members of the Board.

And that the said Council be formed into proper Committees, that the controul, superintendency and direction of the Company's affairs at the Presidency and Subordinates may be faithfully and impartially transacted to their greatest benefit and advantage, and you must, therefore, comply with such instructions and directions as they shall think proper to give relating thereto until you shall receive our orders thereon.

"180. Besides the foregoing regulations, it is our pleasure that our Governor of Bengal, Commander in Chief for the time being, and three senior members of our Council be a Select Committee, with power to make regulations concerning peace and war, and negotiate with the Country Powers, but not finally to conclude any treaty, until the terms and conditions of such treaty shall have been first approved by our Governor and Council. The Governor singly shall correspond with the Country Powers ; but all letters, before they shall be by him sent, must be communicated to the other members of the Select Committee and receive their approbation. And also all letters whatever which may be received by the Governor in answer to, or in the course of his correspondence, shall likewise be laid before the said Select Committee, for their information and consideration, and all the proceedings and correspondence must be regularly entered on their consultations and sent home in duplicate.

(Regulations follow for a redistribution of shares in the Commission on the Revenues.)

Relying on an ambiguous passage in one of the Court's letters, Verelst, who on Clive's departure from Calcutta on January 26th, 1767, had succeeded to the Governor's chair, put into execution a plan for establishing English "supravisors" in each of the more important of the districts belonging to the Diwani portion. As it may in a very

[ clxxvi ] real sense be said that the effective occupation by the English of the lands of the Diwani portion commenced with the mission of the Supravisors to the districts in 1769, it is important to trace the original scope and intention of this measure.

On the 24th May, 1769, Richard Becher, the Resident at the Durbar, addressed to Governor Verelst a letter which, in view of later history, is of importance. After saying, "it must give pain to an Englishman to have reason to think that since the accession to the Dewanee the condition of the people of this country has been worse than it was before ; and yet I am afraid the fact is undoubted," he proceeds to state the causes of this decline. The first of these causes, he stated to be "the mode of providing the Company's investment; the exportation of specie<sup>s</sup> instead of importing large sums annually." Here a large subject for discussion is suggested, and one which forms a very predominant topic in Verelst's letters to the Court of Directors. The second cause—the existing method of the revenue collection, however, is far more intimately connected with the present enquiry. Becher writes :

"The strictness with which the collections have been kept up, and the destructive method of employing aumils, I shall now give my sentiments on as full as I am able...In Aliverdy Cawn's time the amount of the revenues paid into the treasury was much less than what comes in at present, but then the zemindars, shroffs, merchants etc., were rich and would, at any time when an emergency required it, supply the Nabob with a large sum, which they frequently did, particularly when he was at war with the Marattoes. The custom then was to settle a Malguzarry with the different zemindars on moderate terms: the Nabob abided by his agreement: the zemindars had a natural interest in their districts, and gave proper encouragement to their ryotts; when necessary would wait for their rents, and borrow money to pay their own malguzzary punctually. There were in all the districts shroffs ready to lend money to the zemindars when required, and even to the ryotts,—which enabled many to cultivate their grounds, which otherwise they could not have done. This mode of collection and a free trade, which was carried on in such a manner that the ballance proved yearly in its favour, made the country flourish, even under arbitrary government and at a time when a large tract of it was for years [ clxxvii ] together annually invaded by the Marattoes, who burnt and destroy'd all they could come at, the poor inhabitants flying for shelter to the principal cities, European factorys, &c. The swelling of the rivers at the approach of the rains always obliged the Marattoes to retire, and the inhabitants were again secure till January.

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5. It would appear from John Macgregor's *Commercial Statistics* that the exportation of specie to India from England in 1765 was £157, 415, and after that nil down to 1798. Neither Verelst nor Becher seems to have been aware that in the old days it had been an often repeated complaint that the despatch of the revenue from Murshidabad to Delhi left Bengal exhausted of specie. Mandeville in 1740, (quoted by Hunter : *Annals of Rural Bengal*, p. 305) states that the payment of the revenue at Delhi "sweeps away all the silver, coined or uncoined, which comes to Bengal: so that after such treasure is gone from Muxadavad there is hardly currency left in Bengal to carry on any trade, or even to go to market for provisions and necessaries of life, till the next shipping arrives to bring a fresh supply of silver."

They having encouragement set immediately to work, and endeavoured to get their crops in and sent to market before the time return'd for the apprehended invasion ; in so much that even under such circumstances the country was in a flourishing state, and the zemindars &c., able to pay the Nabob his requisition (account his extraordinary expence in keeping so large an army to oppose the Marattoes) the enormous sum of one Crore at one time, and fifty Laacks at another, besides paying the Malguzzary. I mention this only with a view of showing what this fine country is capable of under proper management. When the English first received the grant of the Dewannee their first consideration seems to have been the raising of as large sums from the country as could be collected, to answer the pressing demands from home and to defray the large expences here. The zemindars not being willing or able to pay the sums required, aumils have been sent into most of the districts. These aumils on their appointment agree with the Ministers to pay a fixed sum for the districts they are to go to and the man that has offered most has generally been preferr'd. What a destructive system is this for the poor inhabitants ! The aumils have no connection or natural interest in the welfare of the country where they make the Collections, nor have they any certainty of holding their places beyond the year ; the best recommendation they can have is to pay up their kistbundeas punctually, to which purpose they fail not to rack the country whenever they find they can't otherwise pay their kists and secure a handsome sum for themselves. Uncertain of their office, and without opportunity of acquiring money after their dismissal, can it be doubted that the future welfare of the country is not an object with them ? nor is it to be expected in human nature. These aumils also have had no check on them during the time of otheir employment ; they appoint those that act under them, so that during the time of the year's collection their power is absolute. There is no fixed hustabood by which they are to collect, nor any likelihood of complaints till the poor ryott is really drove to necessity by having more demanded of him than he can possibly pay. Much these poor wretches will bear rather than quit their habitations to come here to complain, especially when it is to be considered that it must always be attained with loss of time, risk of obtaining redress, and a certainty of being very ill used should the aumil's influence be sufficient to prevent the poor man's obtaining justice, or even access to those able to grant it to him. ( On this destructive plan, and with a continual demand for more [clxxviii] revenue have the collections been made ever since the English have been in possession of the Dewannee.) Many other errors might be taken notice of, but I am afraid of tiring your patience, and I hope what I have represented will convince you of the necessity of alterations in the plan of collecting the revenues, as well as that of providing the Company's Investment &c."

Becher then proceeds to suggest the reforms he conceived necessary in order to obviate the abuses and evils described. His opening sentence forestalls a favourite contention of Philip Francis' Revenue Plan of 1776 :

"Permit me here, Sir, to assure you that I do not aim at acquiring credit to myself by an increase of revenue during the time of my residence at the Durbar, but to adopt

such maxims as will relieve this country from it's present oppressed state, and put the ryotts in that state of ease which will encourage cultivation, the benefit of which our Hon'ble Employers will reap in future, and happy shall I be if I can in any degree contribute to so desirable an object. Whenever the Court of Directors shall think proper to avow the management of the Revenues, I think it cannot admit of doubt, that the plan to be pursued through the whole country should be the same as is now practis'd at Burdwan ; viz. letting the lands out to farm for at least three years, with an assurance that those who behave well, and give proper encouragement to their ryotts, should always have the preference in remaining farmers of those lands when their leases expir'd. This method, and English gentlemen appointed to superintend the Collections and the administration of justice, has occasion'd the province of Burdwan to flourish, when the countrys adjacent to it under the Government of the Ministers are in a very declining state. In my idea, the only probable way to induce a man of the country employed in the Collections, to study the welfare of the country, is to make it his interest to do so ; and the nearer the plan you adopt for collecting the Revenues approaches to this standard, the wiser it is. Other necessary steps to be taken are, to have as great a check on the Collector as you possibly can, and to endeavour to fix the rate of Collection in such a manner, that the ryott may know as early as possible in the season, what the Collector has a right to demand of him, and no further demand should be made on any account whatever. The present destructive scheme of adding demand on demand under the name of Matote,<sup>6</sup> has been a material cause of the present distress'd state of the country, and I wish the word could be abolish'd and never heard of more. As we cannot at present proceed on the same plan as is practis'd at [clxxix] Burdwan in the districts under charge of the Ministers, in my opinion the plan most likely to be prosecuted with success, will be to leave the Collections in the hands of the zemindars of the districts where such zemindars can find proper security for the payment of their Malguzzary. I cannot help thinking the zemindars have a very natural interest in the welfare of their districts and are of course more likely to give encouragement to the ryotts than any aumil that can be sent. I am at the same time sensible that many of them have behaved ill, and that they are most of them ruined men ; I am therefore not for putting the revenues to risk by trusting any zemindar who cannot give sufficient security, but where they can I think they have a more equitable claim than any other to advantages that may arise from making the Collections. (Still, I wish every check to be put upon them that can consistently be ; they should know that on proof of any oppression, they should forfeit their zemindary for ever ; they should likewise settle a hustabood for their several districts which should be made publick in them, and a copy of it deposited in the Colcha [Khalsa] Cutcherry, in case of complaint to be referred to ; even a man in behalf of the Government with the approbation of the Resident may be sent to watch the zemindar, and observe the state of his country ; but,

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6. See above p. xxxix.

as in many districts there will still be a necessity of sending aumils, I would recommend care in the choice of the men, and every check that can be thought on to prevent their being guilty of oppression on the ryotts or defrauding the Sircar of its just revenues. The aumils should not have the power to appoint all those that act under them, especially the person next to each who should be appointed by the Sircar, and have a right to keep copies of all papers, be acquainted with every transaction, and encourag'd to give information, by hopes of preferment. Immediately on the arrival of the aumil in the district he should be order'd to form a hustabood, with the assistance of those under him, on the most equitable terms between the Government and the ryott; a copy of the hustabood to be sent to the city, and deposited in the Colcha Cutcherry and the contents to be made publick through the Districts so that every ryott may know what he has to pay, and not be in continual fear of further demands which certainly is a great damp to industry. You'll observe, Sir, (the bunderbust settled every season has exceeded the collections by many lacks, and that of what remain'd as a balance very little has been recover'd so that in reality the settlement is merely chimerical. I would refer it to your consideration whether it would not be better to settle the bunderbust at a lower rate, equal to what has been paid into the Treasury in any one season since we have been in possession of the Dewanee. Such a settlement would, I apprehend, enable us to make an abatement for the relief of the inhabitants in some particular tax which bears hard on them, and (at the [clxxx] same time by proper checks, and constant attention to the conduct of those employ'd in making the collections to prevent their frauds, I am of opinion the Company would receive a larger real income from this country than they have already done; at the same time that the country would flourish;) and I am not without hopes of being able during the approaching season to pay into the Treasury sums of money recover'd from former aumils. My endeavours shall not be wanting, and I own it will give me pleasure if I can gain credit in this way. I shall also submit it to your consideration how far the Company are bound by the ties of honour and justice to make some provision towards the payment of the large sums owing by the different zemindars, &c. You are acquainted with my opinion on this subject, as I gave it in relation to the debts of the Rajah of Burdwan. Many families now in ruin would be reliev'd if any plan could be adopted for the payment of even a part and I think it would greatly tend to enhance the name and credit of the Company".

In June, 1769, Governor Verelst was visiting Murshidabad, and then in collaboration with Becher, he drew up a lengthy letter, dated June 30th, which appears on the Consultations of the Secret Committee of 8th July following. This letter shows that considerable deductions of revenue had been allowed the zemindars in consideration of the distressed condition of the country, but that, despite these drawbacks the writers were sanguine as to the realisation of an increased revenue. <sup>7</sup> [clxxxi] In regard to Purnea they write :

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7. This letter throws much light on the condition of the Diwani Portion in 1769, e.g., *Rajshahi* was divided in 1768 into twelve divisions or *zilas*, and was "let out to people who engaged to pay into the treasury Rs. 26,94,602-15-13, which they have complied with." In 1770 Becher

"The province of Purnea being a very large and fine country, but at present in want of lenient measures to encourage the inhabitants, we thought it would be a great point gained if we could get a person appointed to manage the collections in that district on whose integrity and moderation we might have reason to depend, which would give a confidence to the ryotts. With this view we proposed to the ministers sending Mahomed Ally Cawn, Phoujedar (faujdar) of Houghly, a man generally reckoned of an excellent character. The Ministers acquiesced with our recommendation, and we had the pleasure immediately to find the good effect, that many of the ryotts of Purnea who had come

discovered that the ziladars had collected more than was due and oppressed the ryots. An abatement was made of Rs. 93,602-15-13, and a three years' settlement made with the Rani Bhawani, for

1769	...	...	...	Rs. 26,01,000
1770	...	...	...	„ 26,76,000
1771	...	...	...	„ 27,51,000

The Rani was "as soon as possible to let out all the districts to farm for three years," acquainted that, "in case of deficiency in the payment of her malguzzary, she will be deprived of the right as zemindar." "Dulibe Roy" was appointed "to keep a watchful eye that the malguzzari is regularly paid".

*Dacca.* A deduction of Rs. 26,350 was found to be necessary, since "three years ago Mahomed Ally, Zemindar of Nodullahpoor, was dismissed on an occasion of some European being killed by his people near Bakarganz", and the new Zemindar has been unable to pay the third year's portion of the nuzzeranee imposed on him.

*Birbhum.* "The collection is left to the zemindar. He is fairly assured that on the least deviation he will forfeit his right, and his country put into other hands". The settlement was as follows :

For 1769	...	...	...	Rs. 7,25,000
„ 1770	...	...	...	„ 7,68,400
„ 1771	...	...	...	„ 8,11,879-3-10

*Nadia.* The Rajah "having behaved very ill in retaining a large sum from his malguzzary, and (if the general voice is to be credited) having neglected the good of his country, and distressed the ryotts, we are of opinion the most eligible method to be pursued for the security of our employers and the welfare of the ryotts of these districts, would be to deprive the Rajah of power, and let the country out to farm for three years. As a great part of the Nadca country lies no great distance from Calcutta, people of substance there were willing to become farmers; and the ministers, as well as we judged it right to close with their proposals, which are to pay into the treasury in the present year eight laacks of Sicca Rupees; in the year 1767, eight laacks fifty thousand, and in 1768 nine laacks per annum for his expences, and a proportion of the charges of the Khellatt, etc".

*Rangpur.* The late aumil, Syed Mahomet Cawn, had been disgraced. "The country is represented to be in a declining state".

*Dinajpur.* In July 1768, an aumil ("Buzi Mohun Metre") had been appointed on exceptional conditions, viz. "no fixed agreement was made, but he was to settle a bunderbust on his arrival, to examine all charges of collecting, and strike off what appeared superfluous; he was to be allowed a fixed sallary, and whatever collections were made were to be brought to the credit of the Sircar except the absolutely necessary charges and his sallary". It was found that "he may not have been guilty of any fraud, but he certainly has not executed the important commission entrusted to him".

*Rajmahal,* "having suffered much from the mountaineers" was allowed an abatement of Rs. 12,140. The Nawab and the Resident requested the Governor to direct that a battalion of sepoys should be stationed here. Verelst: *View, etc.*, Appendix p. 224.

with complaints, on hearing of Mahomed Ally Cawn's appointment, returned well pleased home, saying they did not doubt having justice. This district being considerable, and one that will, we are persuaded, under proper management admit of a large increase in a few years, we have thought proper, notwithstanding our confidence in Mahomed Ally Cawn, to appoint Mr. Ducarel (to go to Purnea, and to assist in such a plan for conducting the collection in that district as will best tend to the improvement of the country, the care of the ryotts, and the benefit of our employers. We have great hopes from the experience that gentleman attained in the Province last year, and from the opinion we entertain of his abilities, that he will be of great service in forming a proper plan and procuring the necessary accounts to ascertain a real value of the province."

This appointment of George Gustavus Ducarel to Purnea formed the precedent for the institution of Supravisors in the other districts of the Diwani Portion. In July, 1769, this measure was taken into consideration by the Select Committee, and Verelst's plan was adopted on August 16th, 1769. The names of the Supravisors and their districts, as ultimately determined are as follows :

#### [ clxxxii ] 1. CORRESPONDING WITH MURSHIDABAD

*Dacca*.—Thomas Kelsall, who as Chief had a position superior to the other Supravisors, and in fact had a Supravisor under his orders for Sylhet—John Sumner.

*Hughli*.—William Lushington.

*Birbhum*.—Alexander Higginson.

*Tippera*.—Walter Wilkins.

*Purnea*.—George Gustavus Ducarel.

*Dinajpur*.—H. Cottrell.

*Jessore*.—Robert Wilmot. (Succeeded by J. Shakespear & W. Rooke.)

*Nadia*.—Jacob Rider.

*Rajmahal and Bhagalpur*.—William Harwood.

*Rajshahi and Nattor*.—C. W. Boughton-Rous.

*Rangpur*.—John Grose.

#### 2. CORRESPONDING WITH PATNA.

*Saran and Champaran*.—Edward Golding.

*Shahabad*.—Charles Lloyd.

*Tirhut*.—James Inglish Keighly.

*Rohtas*.—Henry Palmer.

*Monghyr*.—Nathaniel Bateman.

The instructions drawn up by Verelst for the guidance of the Supervisors are worthy of study as they not only lay down the duties of these important officers, but also embody the results of the experience of one of the ablest, if not the ablest, of the Company's servants in the period preceding the governorship of Warren Hastings.

1. Each Supravisor was to collect a "summary history of the 'province' assigned to his charge, in which the form of the ancient constitution was to be compared with the present ; an historical account given of the leading families with a statement of their connections, established privileges, etc., "and "in short every transaction which can serve to trace their origin and progress, or has produced any material changes in the affairs of the provinces." The Supravisors were not to embarrass themselves with "records more remote than those of the reign of Sujah Cawn, as, at that era of good order and good government no alterations had taken place in the ancient divisions of the country, and the confusion, which is now apparent has been posterior to those times." It was supposed that the public cutcherries would be found to be filled with the materials for the compilation of these histories ; and the Supravisors were admonished, in dealing with verbal information, to distinguish between "the private bias of individuals and the real state of facts."

2. The Supravisors were in every case to draw an exhaustive report on the state, the produce, and capacity of the lands, "derived from genuine authorities, and confirmed by an accurate inspection" on their part. It was assumed that in setting about this task, they would doubtless find at each sudder or principal cutcherry a document, or [ ~~clxxxiii~~ ] documents, described as a general and a particular hustabood, that is to say a revenue-roll, with the number of *bighas* or measures of lands, according to original surveys ; but they were warned all such records, "instead of satisfying, must stimulate curiosity ;" "for the contents of it are merely adapted to the private interests of the zemindars, filled with representations designedly disguised to square with their offers and accounts with government, loosely, unfaithfully, and partially formed in every instance." In fact, the existing hustabood would supply "little more than a progressive history of the present dismemberments, and only suggest to you the degree of oppression which the multiplication of collectors and charges, has, on that account, from time to time brought upon the ryotts".

Having made himself acquainted with the existing hustabood, the Supravisor was to proceed to gather information necessary for the formation of a new and accurate one. For this purpose he was himself to visit each division, and call upon its zemindar or local head-collector ; and, after having made inquiries of the greater land authorities to proceed to the subdivisions and examine the subordinate offices. \* In doing this the

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8. The Supravisor was ordered to procure in each subdivision "a list of the *pottahs* as distributed to every ryot, and supposed to contain the quantity of land possessed by each and the amount of rent with which it is charged". Thus "he would be enabled to ascertain how far the *Hustaboods* given in by the collectors of the grand divisions differ from the *Hustaboods* of the lesser, from the principal down to the smallest subdivision. And by taking the sum of any number of *pottahs* in any particular place, and comparing the amount of those *pottahs* with the amounts specified in the *Hustaboods*," he would "arrive at a medium certainty of the excess or deficiency of the lands and revenues as rated therein. And accordingly, as the error or fallaciousness of the accounts shall appear to require it, you are to cause an exact measurement to be taken of portions of land in different places, in order to arrive at a judgment of the whole from the proportional parts." To prevent collusion between the



opportunity was to be seized to impress upon the ryott "in the most forcible and convincing manner, that the tendency of your measures is to be his ease and relief ; that every opposition to them is rivetting his own chains, and confirming his servitude and dependence on his oppressors ; that our object is not the increase of rents, or the accumulation of demands, but solely, by fixing such as are legal, explaining, and abolishing such as are fraudulent and unauthorised, not only to redress his present grievances, but to secure him from all invasions of his property".

By this laborious but highly necessary personal inspection, the Supravisor would find himself in a position to "bring his investigation home to the zemindar." The instructions, therefore, place in the hands of the newly appointed district officers some general information in regard to the methods adopted by the zamindars for deriving clandestine profits from their holdings.

3. The Supravisors were to ascertain "the amount of the revenues, the cesses, or arbitrary taxes, and of all demands whatsoever which are made on the ryot, either by Government, Zemindar, or Collector, with [ clxxxiv ] the manner of collecting them ; and the gradual rise of every new import". Under this head of inquiry is included :—

(a) An exact account of every particular tax or cess, "noting in what particular part of the country the burthen falls, where partial exemptions are allowed, and what is the equitable proportion to the whole".

(b) An account of "the variety of demands which the collector, from the aumil and zemindar to the lowest type, impose without any colour or license from the government ; some of which have been so long exacted and paid, that the ryots begin to imagine the oppression is sanctioned by government, and is not the mere fraud of the collectors." Accounts were, therefore, to be obtained of the numbers and expences of "darogahs, cutwalls and pykes, maintained for the protection of the tenants", who, too often had become "the instruments of their oppression". In this connection, it was necessary also to ascertain "the expence and management of gauts and public markets, with the duties collected at each upon the inhabitants or traders."

(c) "The amount of what the zemindar receives from the ryot, as his income, or emolument ; wherein they generally exceed the bounds of moderation, taking advantage of the personal attachment of their people, and the inefficacy of the present restrictions upon them, since the presence of the Aumil more frequently produces a scene of collusion than a wariness of conduct".

4. Under the head of the Regulations of Commerce, the instructions continue :

"Equal intricacy and familiar combinations will be formed to oppose your progress in this work. The power, the artifice, the complicated connections of public and

zemindars, "the fear of losing their zemindarry or employment" was to be held up to them and should the Supravisor be confronted with strong and obstinate association, the Governor, upon a representation of the facts, would take steps that "every delinquent be made sensible that there is no room for enity where collusive oppression is continued in defiance of all restriction".

private agents, pycars and dellols, ° will all unite in preserving their usurpations on the manufacturer and ryot ; which they have hitherto done by precluding their access to our tribunals, and destroying every kind of intercourse between them and us". The Supravisor was to open his discoveries with "an estimate of the production of every district, both in quantity and kind ; the amount of manufactures and the number of manufacturers employed in every branch, with the annual dues collected on them ; not confining yourself to the [ clxxxv ] present time, but recurring to past years ; that, at one view, you may discern their state of increase or decrease ; and by remarking the prices and qualities at different periods, you will in like manner become acquainted with the improvement or decline in the quality. Your next consideration is to find the channels through which the several articles, produced by the joint-labour of the manufacturer and cultivator, have been diffused. The proportion which fell to the shares of the English, French, Dutch, and other foreigners, as well as to the native merchant likewise what was retained for the consumption of the districts themselves ; concluding this research with a comparative view of the rise and fall in the demand, and stating the balances of the trade as it occasionally varied in favour of one or the other merchant. After you have advanced thus far, the most difficult and consequential task still remains for you to surmount ; which is, to lay open and abolish the several species of imposition which are practised by gomastahs, pycars, dellols, and the whole chain of agents through whose hands the articles of merchandize pass from the loom of the manufacturer, or the store-house of the cultivator, to the public merchant or exporter ; so that clandestine agreements and extraordinary demands may no longer exist, to the utter despondency of the poor ; but a way being opened for them to deal with the fair trades, their industry may be quickened by the certainty of their profits.

5. In the administration of justice the Supravisors were "to enforce justice where the law demands it, checking every composition by fine or mulct ; and where any disputes arise in matters of property", they were to "recommend the method of arbitration to any other". They were not only to see the requirements of the law and justice executed, but to extirpate corruption, and abolish arbitrary fines. The local officers were to be called upon to produce their credentials, and usurpers of judicial authority to be sent about their business. Records of all cases were to be kept at the sudder cutcherry, and a monthly return sent to Murshidabad.

In revenue matters again, the Supravisors were, not merely to report but, to take immediate action whenever their inquiries resulted in a detection of frauds. The instruc-

9. "Pykars" are agents who make purchases of country-thread in the different bazars of the country, and procure cloths for the merchants in the city. An advance of money is made by the merchant, and the Pycar enters into an agreement to deliver to him a certain number of bales of cloth of certain dimensions, quality, and number of thread within a specified time. He distributes the money among the weavers, and superintends the work, and for his trouble receives a small commission of about 2½ per cent". Taylor : *Sketch etc., of Dacca*, pp. 186-8. The Dellol (*dallal*) was a broker, or agent between the purchaser and the pykar (*paikar*).

tions take notice of several ways in which it would be found that the zamindars had abused their advantages,<sup>10</sup> and the Supravisors are authorised to take steps so that "the [ ~~clxxxvi~~ ] zamindars' emoluments of every kind be reduced to fulfilling the purposes for which they were granted, and there bounded". The holders of taluks, jagirs, and lakhiraj lands were to be given a reasonable time in which to display their title-deeds; forfeiture of the lands to government was to be the penalty for undue delay; and transfers of taluks, unconfirmed by deeds signed by the Nawab, were to be regarded as void and the lands forfeited to government.

It will be of interest to quote at length what is said in the instructions on the subject of various kinds of tenure, for these remarks are based upon the experience of the English during the first period of revenue administration.

"The increase in the number of talooks (*taluks*) has been highly impolitic, and detrimental to the general prosperity, and to the diffusion of population in the country. The tenants of a *talook* are possessed of so many indulgencies, and taxed with such evident partiality and tenderness in proportion to the rest, that the *talooks* generally swarm with inhabitants whilst other parts are deserted; and in addition to the natural desire of changing from a worse to a better situation, inticements are frequently employed by the *talookdars* to augment the concurrences to their lands. They have also, by

10. *View, etc.*, Appendix p. 232. "Besides these advantages which the zemindar possesses by the secret appropriation of land, and has secured to himself by partial *hustaboods*, he has an originally allowed title to the freehold of some lands, and to the engagement of some perquisites; but abuses have crept alike into them all. The meaning and intent of his being indulged with such exclusive possessions was to supply his family with the necessaries and conveniences of life. Under the name of *Nejaut* and *Nankor* (*nijot* and *nankar*), one spot was to yield him rice, another was allotted to him as pasture; a particular tank was to afford him fish and water: and, in like manner, distinct spots were given up to him for every distinct article of consumption. Though these indulgence was confined to this purpose only, there is just cause for supposing that he has extended his claims, and availed himself of opportunities to lay his hands on the revenues of the government, and on the property of ryots, where he has no foundation of right, nor colour of pretence.

"The Nuzzer-anna (*nazarana*), which is called Sedee (Bengali *Sedi*), and consists both in provisions and money, is an instance of it; and neither he nor his attendants move from one place to another, without demanding and exacting it from the inhabitants of his district; a custom which ought to be permitted only under restrictions, and in a manner that the ryots may not wantonly be despoiled, but the demand limited to a reasonable contribution.

"Another considerable source of profit to him is the levying of fines at will, which is a power that ought to be totally extinguished. He likewise raises large sums from duties collected in the markets, and assumes an authority over the ryots to require their labour gratuitously, which sometimes might be allowed, were not the poor labourer too often taken under this pretence from his own immediately necessary duty, to attend the mere arbitrary pleasure of his zemindar, who receives large presents out of the various productions of the district, which, though intended originally for his own private consumption is often sold by his dependants. Added to these, he generally claims a *batta* on rupees at an arbitrary valuation, which is an illegal perquisite, and ought to be discontinued in future. These, and all such excesses in the zemindar which can not be here mentioned, as they will open to you as you proceed, should be retrenched; and all his emoluments of every kind be reduced to fulfilling the purposes for which they were granted, and there bounded."

faction, made considerable encroachments, and most probably possess extensive tracts beyond the original grants. Now it ought to be remembered that the welfare and good of the whole was never intended to be sacrificed to the enriching of a few, perhaps worthless, individuals, who can shew no pretence to these particular advantages, but a prostitution of their integrity to their avarice. Your aim must, therefore, be to remove all distinctions, to bring every man upon a footing with his neighbour, to lighten the burthen on the whole, by making it equal and impartial, and to enforce the surrender [ ~~clxxxvii~~ ] of lands unlawfully possessed. "*Jagheers (Jagirs)* are always, as *Talooks* are sometimes, rewards to particular persons ; but differ from them in being gifts of the crown, confirmed only by the Nizam. The grants are either hereditary or expirable with life ; the same accounts are to be taken of them. . . . .

"As to charitable or religious donations, the lands so sequestered are to be estimated with regard to their extent, productions, and value ; if the amount appears to exceed the endowment of the institution, the overplus should be brought to credit ; if the institutions are decayed or perverted, they should be entirely abolished, and the revenues re-assumed by government.

"The *Coss (Khas)* lands, which are superintended by government for want of farmers, are specified in the accounts of the Sudder Cutcherry. As it imports us to know whether accidental causes, or the malversations of the managers of such lands, have been the primary cause of their decay, you will make a full and circumstantial report thereof. And as it may be apprehended that ever since their falling into the hands of government, the time and the attention of the public officers have been employed rather in gleaning the small remains of substance from them, than in nourishing and recovering them from distress, their conduct should be examined. The truest test of it will be your ascertaining the produce of the lands under the last farmer before they became *coss (khas)*, and what has been received from them since ; which will point out the improvement or decrease by their superintendence. And, if it should be found that the lands have been falling instead of rising in value, there can be no doubt of the unfitness of such men, nor any hopes of seeing the *coss* lands peopled, cultivated, and prospering under their hands. After a due consideration of their present state, public notice should be given that we are ready to receive offers for farming them at a term of two, three, four or five years, at an annual increasing rent, at the end of which period they are to pay the same as other lands, and to be subjected to all orders, which may be occasionally issued by government for the regulation of the revenues, and the country in general.

"The *Comar (khamar)* lands, having no native tenants, are cultivated by contract. The custom and terms of contract are various in different districts, but in general, there is one settled rule. An advance in money is made by the zemindar to the cultivator, by the help of which he tills and improves the lands. When the crops are cut and gathered in, they are generally divided between the cultivator and zemindar ; from one-third to

one-half to the cultivator, and the [ clxxxviii ] remainder to the zemindar ; when the former accounts with the latter for the amount of the advances, which are often taxed by the zemindar with a heavy interest, or fraudulently exceeded by an arbitrary valuation, far below the market price of the goods or products of the lands, in which he is paid. Your object is to inform yourself what the cultivator really received for his labour, and in what he is injured ; and secondly, what the zemindar embezzles and secretes from government by an under-valuation of the productions of the soil which he thus receives, sinking the amount of the returns ; and by other means which serve to deceive us, and obstruct the progress of cultivation in these lands. In all which, I apprehend, you will find no difficulty, if you only ascertain the amount and market price of these products, and compare them with what the zemindar brings publicly to the credit of government ; and comparing the accounts of the zemindar with those of the cultivator, it will expose the total of his undue acquisitions, enable you to penetrate through the arts of concealment, and give you a thread by which to unravel the whole gradation of collusive fraud in this particular. As the unequal diffusion of inhabitants has been the cause of this scarcity of cultivation in different parts, every expedient should be used to encourage people to settle on the *Comar* and waste-lands, that they may be converted ryotty. The great towns, whose populousness only serves to propagate poverty and idleness, might undoubtedly afford numbers of useful hands, who in their present situation are either a burthen or a pest to the community. These should be sought out, and taught to apply to culture, setting such prospects and expectations in their view as will engage their consent. The *talooks* and *jagheers* will likewise be found to contain many idle, and these unserviceable hands, who may, in like manner, be induced to transplant themselves to these lands, and become farmers.

“Lastly, I shall speak of the ryotty lands. The quantity in measurement as well as revenue, will appear from the several pottas granted, after the enquiry before recommended ; and the amount of product in kind you will acquire by ascertaining what is really produced on some portions of land of each different soil, which you may select for this purpose, and so draw a general medium of the product of the whole ryotty.....

“You will doubtless readily meet with an account of waste or uncultivated lands ; they stand recorded in the cutcherries ; but here you will probably find a large field of collusion ; for whatever lands have been once wrote from the revenue under this head, though possibly deserted but for a short time, little has seldom been brought on again to the public credit. This will [ clxxxix ] appear by your taking accounts of the waste lands, as they stand recorded at different periods of time, and from them noting their gradual increase or decrease. Nothing can ascertain the present state of those lands so well as a local investigation. You will probably find them to be a fund to the zemindar or collector for their creatures or dependants, who enjoy many flourishing and fertile tracts thus denominated ; all which should be immediately resumed.”

From the passages already quoted it will have been seen that a tender regard for the ryot is a constant note in these instructions. “The truth”, writes their author, “can-

not be doubted that the poor and industrious tenant is taxed by his zemindar, or collector, for every extravagance that avarice, ambition, pride, vanity, or interference may lead him into, over and above what is generally deemed the established rent of his lands. If he is to be married, a child born, honours conferred, luxury indulged, the nuzzer-annas, or fines, exacted even for his own misconduct, all must be paid by the Ryot. And, what heightens the distressful scene, the more opulent, who can better obtain redress for imposition, escape; while the weaker are obliged to submit". To the mind of Verelst the institution of Supravisors was but taking advantage of a great opportunity on behalf of humanity. "Amongst the chief effects, which are hoped for from your residence in that province, and which ought to employ and never wander from your attention, are to convince the ryot that you will stand between him and the hand of oppression; that you will be his refuge and the redresser of his wrongs; that the calamities he has already suffered have sprung from an intermediate cause, and were neither known nor permitted by us; that honest and direct applications to you will never fail in producing speedy and equitable decision; that after supplying the legal due of government, he may be secure in the enjoyment of the remainder; and, finally to teach him a veneration and affection for the humane maxims of our government".

In the great debate with Warren Hastings, Francis contended that the anxiety of English officials to acquire an exact knowledge of local investigation arose from an anxiety to wring the utmost out of the land short of effecting the ruin of the country. Certainly such a charge cannot be brought against this scheme of Harry Verelst. His period of rule as Governor has been characterized by harsh phrases, and it is, therefore, but justice to quote in this place the appeal which he addressed to his newly appointed district officers, for the words, formal and grandiloquent as they have seemed to some, surely reveal a warm heart and elevated mind:

"Your commission entrusted you with the superintendence and charge of a province, whose rise and fall must considerably affect the public welfare of the whole. The exploring and eradicating numberless oppressions, which are as grievous to the poor as they are injurious to the government; the displaying [cxc] of those national principles of honour, faith, rectitude, and humanity, which should ever characterize the name of an Englishman; the impressing the lowest individual with these ideas, and raising the heart of the ryot from oppression and dependency to security and joy, are valuable benefits which must result to our nation from a prudent and wise behaviour on your part. Versed as you are in the language, depend on none, where you yourself can possibly hear and determine. Let access to you be easy, and be careful of the conduct of your dependents. Aim at no undue influence yourself, and check it in all others. Great store of integrity, disinterestedness, assiduity, and watchfulness is necessary, not only for your guidance, but as an example to all others; for your activity and advice will be vain, unless confirmed by your example. Carefully avoid all interested views of commerce, or otherwise, in the province, whilst on this service; for, though ever so fair and honest, it will awaken the attention of the designing, double the labour of developing stratagems,

and on removing burthens and discouragements with which the commerce of the country in general has been loaded. You have before you a large field to establish both a national and a private character ; lose not the opportunity, which will be temporary only, for your whole proceedings will be quickly revised ; a test which the Board considers due to themselves, as a confirmation of the propriety of their choice ; to you, as an act of justice to your conduct ; and to the public, for the security of its interests. As the extent and importance of your trust are great, so in proportion will be the approbation or censure, arising from your good or ill-conduct in it, be attended with unusual distinction or particular severity. Sentiments which I convey to you, to shew the degree of confidence the Board repose in your integrity and abilities ; but by which I mean not the remotest suspicion, either in them or myself, of your disappointing their expectations". 11

The correspondence of the several Supravisors with their Chief, the Resident at the Durbar, has apparently never received the attention it deserves, it is necessarily full of the most valuable materials for a history of Bengal at the epoch of the commencement of English rule. From the first the Supravisors were hampered in their work by the native revenue collectors, who represented that the attempts of the English officials to gather statistical information were calculated to put a stop to the collection of the revenue. Mr. Becher, who expressed his approval of the scheme, seems to have been much influenced by these representations. On the 10th October, 1769, he pleaded for a delay in executing the plan :

[**excl**] To Hon'ble Harry Verelst, Esq.,  
*President and Governor, and the Gentlemen  
 of the Select Committee.*

CALCUTTA.  
*The 10th October, 1769.*

"Gentlemen,

I take the liberty to acquaint you with my sentiments at large on the proceedings of your Board on the 16th of August, but shall chiefly confine myself to reasons for delaying the execution of the intended plan untill the close of the present year's collections, at least in every district where *aumils* are employed. If you, Gentlemen, concur with me in opinion, there will be time sufficient for more extensive annotations in the letter of instructions ; but permit me here to declare that I think the plan excellent, the instructions drawn with a masterly hand, and that they will redound much to the credit to those who have concerted and prepared them. On my part, Gentlemen, be assured of hearty concurrence and the exertion of my utmost endeavours that your humane and noble design may be effectually carried into execution.

"That it may be so many points are necessary to be considered—

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11. The instructions are printed in Verelst's *View, etc.*, Appendix, p. 134.

*“First, the proper division of Bengal into zilas or districts, so that every part thereof may come within the inspection of one or another of the Supravisors : as the appointments stand at present, many places of importance, and where enquiry is absolutely necessary, are omitted. An account of such a division as appears to me proper is preparing and will be laid before your approval and amendment.*

*“Secondly, the mode you would choose to adopt for the collecting the Revenues the ensuing season ; how far the Supravisors are to be engaged in that branch ; what degree of power they are to be invested with, and whether you will not have people appointed on behalf of the Country Government to accompany the Supravisors ; if this is thought expedient, the selection of proper men, fixing their appointments, and the share you design they should have in the Government are matters to be discussed and settled.*

*“Thirdly, the research for such records at the City as may assist the Gentlemen in their enquiries and preparing them to be delivered with the instructions.*

*“Fourthly, inducing the Ministers to join heartily in our scheme, which I think very essential to its success. That most of the dependents on the Ministers will try every art to frustrate our endeavours admits not of a doubt, but their efforts will be weak [ cxcii ] and vain, if the Ministers, and the Nabob in particular, are hearty in our cause. I have, since my residence at the Durbar, induced the Nabob to concur in measures that tended to lessen his authority. I doubt not of being able to effect the same in the present case, if time is allowed to convince him of the propriety of the scheme and a degree of delicacy observed. I think the interest of the Company materially concerned, and that it is political to show Mahomed Reza Cawn every mark of respect we can, without deviating from our plan of reformation, and I further think he has a claim to this from the indefatigable pain he takes, and the services he has rendered the Company.*

*“Many reasons may be assigned why the Supravisors should not proceed into the districts before the close of the present year’s collections, or the month of April next. A few will, I hope, suffice to convince you, Gentlemen, of the propriety of this delay.*

*“1st.—It is proposed that the Gentlemen should not interfere with the collections, but by these instructions they are to make enquiries relative to every branch of the Revenue, which it is impossible for them to do, unless the records and every account of the collections are laid before them, and unless the persons employed in the different branches attend to explain their account, which cannot be done without their neglecting the respective parts of the Revenues under their charge.*

*“2ndly—The people who have undertaken the payment of Revenues for the present year, being most of them likely to be sufferers by the very unfavourable season, will embrace every opportunity to evade payment or get off their bargains. The arrival of the Gentlemen in the districts will give them a fair opening, as it will unavoidably create a divided power, and they will plead that they have not sufficient authority to oblige those under contract with them to comply therewith. The people of the districts naturally artful, will also catch at the opportunity of Gentlemen arriving in the height of*



the collection to evade their payments by preferring numberless complaints to the Supravisors, the justness or impropriety of which the Gentlemen cannot be competent judges of, not being sufficiently acquainted with the manner of making the collections. Much inconvenience must therefore arise, and I fear loss to the Revenue.

“3rdly—The people at present in the districts will look at the Supravisors with jealous eyes, and withhold every information they possibly can, whereas by selecting proper men against the ensuing season, and holding forth to them the hope of reward and honor, in case of good behaviour, they might be of the most essential service to the Gentlemen in their enquiries. These reasons only, Gentlemen, have so much weight with me, that I do not hesitate to give my opinion for delaying to send [xcxlii] the Supravisors untill the time mentioned. No prejudice can, I think, accrue from this delay, but the intermediate time may be well employed in such preparations as will be most likely to ensure success to the plan.

“I long since declared my wish to see every district in these provinces let out to farm, and superintended by Gentlemen in the Company’s service; in short that the whole country might as soon as possible be put on the same footing as Burdwan, as far as circumstances would admit. I have endeavoured to pave the way for such a system by recommending to farm Nuddea, Raje Shahy and Purnea districts. The approaching season I did purpose forwarding the farming scheme by adding some other countries to those already farmed, and still hope that plan will be pursued, being conscious that it is the most eligible for the interest of our employers, and to render this fruitful country as flourishing as it ought to be. By the tenor of your instructions, and the restrictions therein laid on the Supravisors, in the article of trade, you seem to mean their appointments as temporary. Give me leave, Gentlemen, to differ in opinion with you on that point. I think their appointments should be permanent, and that when we have once adopted the plan of sending English Gentlemen into the Districts, they should be continued there, and invested with such a degree of power as may be judged necessary for the well conducting the collection of the Revenues, carrying on the trade of the country to the general benefit, and answering the other good purposes intended by the new adopted plan. Much may be urged in favour restricting Supravisors on the article of trade; the Gentlemen being perfectly disinterested would certainly be a great point gained, but to have them act as we would wish, they must have a view to advance their fortunes in a reasonable degree, which must arise either from fixed allowances or advantages of trade; the latter, I apprehend, will be judged the most proper; and from the established good characters of the Gentlemen appointed Supravisors, I flatter myself they would not aim at monopolies, but content themselves with the advantages accruing from a free, fair, and equitable trade, which would prove a benefit to the districts they are to superintend. These Gentlemen will have every inducement to act with zeal in their employs, if proper emoluments are to be derived from them. What credit may they not gain by well executing the trust reposed in them? Can any business be so pleasing to a good heart as that of contributing to the relief, care and content of thousands, and the

benefit of those it serves ? A man that will not be swayed by such motives as these you will find it difficult to restrain ; that there is not any such I sincerely hope.

“For the same reasons that I recommend delay in the commencement of the plan in the Bengal districts, I am of opinion that no [ cxciv ] time should be lost in appointing Supravisors to the Bahar and Bagylpoor provinces, this being the proper season for such Supravisors to enter on their employs, those provinces being by all . . . in a declining state, in great want of present abatements and lenient measures in order to recover their former flourishing situation. And should you, Gentlemen, be very anxious to make a trial in Bengal as early as possible, it does not occur to me that there is any material objection against sending the Gentlemen who are appointed Supravisors for the farmed districts to their respective stations before the close of the season. Mr. Ducarel in particular, having been twice in Purnea, is known and respected there, and would, no doubt, support the farmers in their just rights. The two Gentlemen also nominated to Raje Shahy and Nuddea might, I think, with some alteration in their instructions, proceed to their appointments, after having been a certain time at the Durbar, sufficient to be furnished with every necessary information they can obtain from me and from the Ministers. I also take the liberty to recommend that the other Supravisors be with the Resident at the Durbar at least six weeks before they proceed to their several stations, and it shall be my business to prepare every information that can be procured, and is likely to be of use to them in the execution of their important trust.

“I am to request, Gentlemen, that you will please to admit of alterations in the appointments of some of the Assistants. Mr. Anderson I would wish to remain at the Durbar, as from his knowledge of the Persian language, he would be a very useful Assistant there. Mr. Ducarel is himself so well versed in the language, as to have no occasion for the Assistants in that way, and, if you think fit, Mr. Jacamb may accompany Mr. Ducarel to Purnea, instead of Mr. Anderson. I must also request that Mr. Rooke may remain at the Durbar, he having begun a set of books which he keeps in a very neat and correct manner ; it was his request as well as mine that he may be permitted to stay on as an Assistant under the Resident, at least till he has completed the present sett.

“The season for the heavy collections approaching, I am to request that the business, on which, with your permission, I came to Calcutta may be taken into consideration as soon as you conveniently can, and that I may be permitted to return to my station at the Durbar, as I am of opinion my presence will be absolutely necessary there to prevent considerable Balances being incurred. Indeed it is with great concern, I am again obliged to represent that from almost the whole country complaints are continually made of the great want of rain in the proper seasons, and apprehensions expressed of a scarcity of grain. It is generally said that so unfavourable a season has not been known these many years. A famine is dreaded, [ cxcv ] and how the Revenues may be reduced I can't take on me to say ; but I assure you, Gentlemen, that whilst I hold my present station, I will exert my utmost abilities to prevent every ill-effect that can possibly be avoided in such calamitous circumstances.

I am, Sir, Richd. Becher.”

In the following year, when the Supravisors had reached their several districts, Becher succeeded in getting the powers entrusted to them reduced, and it was the first step taken by the Comptrolling Council of Revenue of Murshidabad (October 29, 1770) to restore the Supravisors to the position intended for them by Verelst, and to recall their rivals, the *aumils*, from the districts.<sup>12</sup>

The action of Verelst in appointing the Supravisors, it may be observed, met with the approval of the Court of Directors, who on 10th April, 1771, wrote—"It is with pleasure we observe that the appointment of Supravisors to examine into the state of the provinces (under the instructions which our late President has with so much judgement and fullness laid down for their guidance) may be productive of so general a reformation of the abuses, which are the immediate object of our concern, that we have little to add to our preceding orders and regulations. We, therefore, wait with impatience for the issue of the Supravisors' researches, in full hope that our President and Council will have adopted such measures as shall unite with our views, not only for the Company's interest, but for the good of the country from which we receive so great an advantage."

In 1772, however, the Directors thought it necessary to provide against the possibility of the Supravisors obtaining an undue influence [~~cx~~vi] in their several districts, and on Jan. 28th, they ordered that "no Superintendent of the collection of the Revenues be permitted to have charge of any particular district for more than two successive years, and that during his continuance in such a station, he be not

12. See Consultations of the Comptrolling Committee. Oct. 29th, Nov. 30th, 23rd and 26th, 1770. (India Office Records. Factory Records: Murshidabad. Vol. I.) On Oct. 30th, 1770, the Select Committee write to the Court: "17. From the very serious representations of the Resident of the Durbar and Mahmed Reza Cawn, we were at length with much difficulty induced to withdraw from some of the Supravisors that controuling authority which the Committee intended should be invested in them all. We thought that an adherence to the original plan more suitable to the consisting dignity of Government than a change, which might, if an Association really existed, inspire the accomplices with fresh confidence. The Resident at the Durbar, on the other hand, assured us that the collections could not be carried on, if the controuling power was continued to those Gentlemen, that it would interrupt the business, and create prettexts for balances, that the active power was the only effectual one, and that it was too great to be entrusted all at once; and he further urged the distresses of the conjuncture, and insufficiency of your funds, which he thought made it an unfit season for experiment, offering it as his opinion, at the same time, that it would be most expedient to commence by slow degrees, first to invest a few of the Supravisors with the active power, and confine the rest to the administration of justice and the improvement of themselves in the knowledge of the country. Many other forcible arguments which are recorded in our proceedings (June 28th), were urged on this occasion, and we, thereupon, at length gave our consent that the controuling power should for the present be only invested in Messrs. Kelsall, Graham, Vansittart, Ducarell, and Stewart. But in this our intention has been frustrated by orders since issued by the Council in their Secret Department confirming the controuling power to all the Supravisors which was originally vested in them." This letter is signed by J. Cartier, Claud Russell, and Charles Floyer.

directly nor indirectly engaged or interested in carrying on any trade in that district committed to him." On the 7th of April, 1773, however, the Court wrote :

"45. As the sending our junior servants into the provinces as Supravisors has not been attended with the wished for success, but has enabled them to monopolize the whole trade of the country, we, therefore, direct that they may be withdrawn as soon as possible, and we leave it to you to substitute some other plan of making yourselves acquainted with the exact value of every district, and for giving relief to the inhabitants, till we shall be able to send your compleat regulations for conducting this hand of our affairs which we have now under consideration."

## CHAPTER X.

### The Administration of John Cartier, 1769-1772.

"On December the 24th (1769) after the last harvest of the year had been gathered in, Mr. Verelst laid down his office, without having conveyed to his masters a single intimation of the true nature of the impending famine."<sup>1</sup> So writes Sir William Hunter. The Council, as a matter of fact, had on September 30th, warned the Court of Directors that "the revenues of the provinces of Bengal and Behar were expected to fall short, owing to the very unusual scarcity of grain," and on the 23rd of November had spoken of "the melancholy prospect before our eyes of universal distress for want of grain." "As," they continue, "there is the greatest probability that this distress will increase, and a certainty that it cannot be alleviated for six months to come, we have ordered a stock of grain sufficient to serve our army for that period, to be laid up in proper store-houses ; and we have taken and shall persue every means in our power to relieve the miserable situation the poor inhabitants must be involved in from this dreadful calamity ; but we cannot flatter ourselves that all our endeavours will prevent very fatal effects being felt, or that humane means can check its baneful influence." This letter of the 23rd November,

1. *Annals of Rural Bengal*, p. 22.

Sir William Hunter notes, "is not signed by the President, but by Mr. John Cartier, the second in Council, who was to succeed him," and Sir William conjectures that Mr. Verelst's omission to sign was probably intentional, as he took part in the proceedings, and signed another letter of the same date".<sup>2</sup> As Verelst was about to lay down office,<sup>3</sup> it is possible that he may from the first have assigned to the person who was to succeed him the measures required by the anticipated famine. The omission of his signature to a general letter to the Court may have been the result of an oversight, and it should be observed that the almost invariable practice with the Council [xcviii] was that a member might express dissent in a separate minute, but, to preserve the appearance of unanimity, he would sign the general letter, whether or no its contents met with his whole approval. It is extremely unlikely that on the occasion a majority of the Council insisted on sending home a letter disapproved of by the Governor; but Sir (William Hunter's theory does in fact imply that Cartier took a serious view of the situation, which Verelst sullenly ignored.)

Of the famine of 1770, Hunter does not err when he tells us that John Shore's "poetry adheres as closely to the facts as many men's prose"<sup>4</sup>.—

"Still fresh in memory's eye the scene I view,  
The shrivelled limbs, sunk eyes, and lifeless hue;  
Still hear the mothers' shrieks and infants' moans,  
Cries of despair and agonizing groans.  
In wild confusion dead and dying lie;—  
Hark to the jackall's yell and vulture's cry,  
The dog's fell howl, as midst the glare of day  
They riot unmolested on their prey:  
Dire scenes of horror, which no pen can trace,  
Nor rolling years from memory's page efface".

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2. Mr. P. Dias informs the present writer that the copy preserved at the Imperial Record Department is signed by Verelst. On October the 23rd, 1769, the Secretary to the Government (Ed. Baber) addressed the Collector-General (Jas. Alexander): "The alarming accounts which the Hon'ble President and Council have heard of the distress of the country for want of grain from the great drought that has prevailed, and the melancholy prospect that this distress will increase, have determined them to take every measure in their power to provide against the fatal consequences that are to be apprehended. None can be more fatal than monopolies of grain at such a juncture, and it is greatly to be feared that they will be aimed at. I have, therefore, the commands of the Hon'ble President and Council to acquaint you that they have particularly recommended to you to exert your utmost endeavours to detect and prevent, as much as lies in your power, so fatal a measure." Copies of this letter were issued to the district revenue officers. Such measures, of course, could not have been executed without Verelst's sanction.

3. Verelst resigned on the 26th Dec., 1769.

4. *Annals of Rural Bengal*. Hunter is wrong in describing Shore's verses as the only non-official account we have of the famine. A lengthy account was communicated by "J.C." to the *Gentleman's Magazine*, vol. xii. 1771, and was subsequently included in the *Annual Register*, 1771. See also Col. T. D. Pearce's letter to General Pattison, *Bengal Past and Present*, vol. ii, p. 317. Charles Grant, who first arrived in Bengal in June 1763, and who in 1769 was living in Becher's house at the Moti Jheel (at

Writing in 1772, Warren Hastings sets down the loss of population due to the ravages of the famine as "at least one-third of the inhabitants of the province," and he alludes to "the laboured descriptions in which every circumstance of fact, and every art of language, have been accumulated to raise compassion, and to excite indignation against your servants, whose unhappy lot it was to be the witnesses and spectators of the sufferings of their fellow-creatures".

When it is remembered that at the time of the great famine in Orissa in 1866 "the principles and methods of relief administration were still unsettled and unformed," and that the Commission of 1800 has been said to have "for the first time reduced to system the administration of famine relief,"<sup>5</sup> it will at once appear somewhat ruthless to blame the English in 1769-70 still labouring under the disadvantages of the double government, for their want of experience and skill in providing relief for famine-stricken districts.

It is significant that James Mill, who seldom fails to make use of any opportunity for exposing the ignorance or the incapacity of [cix] either the Company or its servants, should have been content to dismiss the subject of the great famine with these few words:—"The first year of his (Cartier's) administration was distinguished by one of those dreadful famines which so often affect the provinces of India—a calamity by which more than a third of the inhabitants of Bengal were computed to have been destroyed".<sup>6</sup> The reserve of Adam Smith in his *Wealth of Nations* is also significant.

(The belief that the famine of 1769-70 was largely due to the unscrupulous commercial transactions of the Company's servants, gained a rapid and wide acceptance. John Shore (afterwards Lord Teignmouth), in a note to his poem, writes: "Ignorance and prejudice have attributed the famine to the avarice and machinations of the English," and Sir Francis Sykes, who left Bengal eighteen months before the famine commenced, has been calumniated as the author of it. Whoever knows the country of Bengal, knows that no art can produce a famine there". Scandal so heavily attached itself to the unfortunate Sir Francis Sykes, that Bishop Barrington, in virtuous indignation at all he had heard said on the subject, declined to visit the Baronet, until, at last Shore was able to enlighten the Bishop, the fact being that Sykes had left Bengal a year before the famine commenced. Even Becher, who did so much to relieve the sufferings of the inhabitants, found the stigma attached to his reputation, and in 1772 had occasion to express to the Directors his inability to understand how the Society for trading in salt, betel-nut, and tobacco, established under Clive in 1765, could be supposed to have produced "that dreadful calamity—the late famine in Bengal in 1769-70".<sup>7</sup>

Murshidabad) describes the famine in his *Observations on the State of Society among the Asiatic subjects of Great Britain*, 1797. G. F. Grand (*Narrative of a Gentleman*) re-iterates the charges brought against individual English officials, while Capt. J. Price repudiates the same in his *Five Letters from a Free Merchant in Bengal*, 1777.

5. Strachey : *India : its Inhabitants and Progress*, 2nd edn., p. 245.

6. Mill : *op. cit.*, vol. iii, p. 486.

7. *Life of Lord Teignmouth*, by his son, vol. i., p. 47.

The Court of Directors, however, expressed their conviction that "the ryots were compelled to sell their rice to those monopolizing Europeans", and they inferred that these "could be no other than persons of some rank in our service, otherwise we apprehend that they would not have presumed on their having influence sufficient to prevent an inquiry into their proceeding". Being thus convinced, the Directors professed themselves astounded that these persons should have dared "to counteract the benevolence of the Company, and entertain a thought of profiting by the universal distress of the miserable natives, whose dying cries, it is said, were too affecting to admit of an adequate description". It seems that charges, but without naming the offenders, had been actually advanced by Becher and Mahomed Reza Khan, and that these charges were never submitted to an official investigation. On the other hand, the Directors, in their letter of the 29th August, 1771, write :—

"Notwithstanding we observe that Mahomed Reza complained of a monopoly of rice being carried on by other persons, we have received information that he himself, in the very height of the famine, has been guilty of great oppressions ; that he has been guilty of stopping the merchants' boats loaded with rice and other provisions intended for the supply [cc] of Muxadabad (Murshidabad), and has forcibly compelled owners to sell their rice to him at a price so cheap as 25 to 30 seers per rupee, and resold it afterwards at the rate of 3 or 4 seers per rupee, and all other eatables in proportion, and that, although it is affirmed this conduct of Mahomed Reza Khan has operated in the destruction of many thousands of people, yet it has been overlooked by those in power, who ought to have prevented him from acting in a manner so inhumane, and so very unworthy the station which he fills as Naib Dewan of the Province of Bengal".

It may be that after so long a flight of time it would be impossible at the present day to investigate these charges and countercharges ; but it may be believed that it was neither the apathy nor the criminal greed of the accused officials which gave rise to the charges brought against them, but that ill-considered attempts to preserve at least a sufficiency of grain within their own particular districts rendered the Supravisors and others open to the charge of creating "corners". The records in regard to similar catastrophes at other times give great weight to such a conjecture.

It is now necessary to revert to the subject of the orders sent out from the Court on the *Lapwing* in 1769. As the Government at Fort William were in almost daily expectation of the arrival of the Commissioners expressly appointed to carry the Court's orders into execution, some six months were allowed to pass by without anything being done to establish the two Comptrolling Councils of Revenue. At last, on June 19th, 1770, the Council, by a formal motion resolved "to take into consideration on Wednesday next the 27th instant, the orders of the Hon'ble Court of Directors of the 30th of June 1769, per *Lapwing*". This resolution awakened the jealousy of the Select Committee, if indeed a similar feeling on the part of the members of that Board had not in reality been a cause of the delay in putting the Directors' orders into execution. It has been already explained that the Orders by the *Lapwing* were addressed to the whole Council, while hitherto matters concerning the Diwani revenues had been

administered by the Select Committee. The resolution of the Council to take the Orders of the Directors into consideration thus gave rise to a protracted debate as to where "the supervising power in the Government was placed." A record of opinions expressed on this occasion will be found in the letter of the President and Council to the Court dated 8th September 1770, and it will be unnecessary to deal with the details of the discussion in this place. In accordance with the Directors' orders, the Council appointed two Comptrolling Councils of Revenue:—

- (1) At Murshidabad : Messrs. R. Becher (chief) J. Reed. J. Laurell. J. Graham.<sup>8</sup>  
[ cci ] (2) At Patna : Messrs. J. Alexander (chief). G. Vansittart.<sup>9</sup> R. Palk.<sup>10</sup>

In communicating these appointments to the Court, the Council say : "The instructions with which they are furnished are taken entirely from your orders, and we have confirmed strictly to what we judge the spirit of your intentions in these new appointments." They repudiate any wish to "annul the authority of the Select Committee or to dispute about the power of the Board," and state that their sole object has been to execute the orders addressed to them "for the better regulating the collections of the Dewannee."<sup>11</sup> The Select Committee, on the other hand, complained to the Court that they had been robbed by the Council of their right to supervise the revenues.

On the 25th of April, 1771 the Court of Directors declared their sentiments on the subject of the Select Committee's opposition to the measures of the Council. The directors write :

"1. Since closing our letter of the 10th instant, we have more fully considered the conduct of our Governor and Council and Select Committee at Bengal, and we entirely disapprove the opposition given by our Select Committee to a measure, which was positively ordered by the Court of Directors ; and for the speedy accomplishment whereof the *Lapwing* Packet was despatched expressly to your Presidency.

"2. And as so alarming a disunion amongst our servants may be attended with consequences of a very serious nature, we cannot omit the present opportunity of testifying our displeasure against those persons who have opposed the execution of our orders.

"3. It is, therefore, our pleasure, and we do hereby direct that Mr. Becher be dismissed from our Council at Bengal, that Mr. Claud Russell, and Mr. Charles Floyer be immediately removed from our Service in Bengal and that they do return to Madras with all convenient dispatch, where they are to take rank in the stations they would now have held in the Company's Service respectively, in case

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8. J. Graham whom we have met with at Burdwan and Midnapur.

9. George Vansittart, a young brother of the former Governor of Bengal.

10. R. Palk—perhaps a son of the Madras Governor of the same name.

11. The Council took the opportunity of protesting against the action of the Select Committee in withdrawing the powers entrusted to the Supervisors as such by the whole Council.



they had remained until this time without interruption on the Fort St. George Establishment.

"10. We are truly sorry after having entertained the highest opinion of the abilities and good conduct of our President, [ccii] Mr. Cartier, that he should in any shape incur our displeasure, but we cannot pass over his late conduct in joining a resolution to retard the execution of our orders, which, if they had been vigorously enforced, would, we cannot doubt, have tended much to the public welfare, and reflected honour on every individual who might have had the execution of them. We, therefore, direct that Mr. Cartier do continue in the Government of our Presidency of Fort William till the departure of the last ship of the season for Europe after the arrival of Mr. Hastings in Bengal, on or before which time it is our pleasure that Mr. Cartier do resign the Government to Mr. Hastings.'<sup>12</sup>

In a subsequent letter (24th. November, 1772) the Court shows its appreciation of the conduct of the members of Council who had stood out against the Select Committee. The permission granted to members of Council to hold chiefships at the subordinate factories—a most retrograde measure—must have been exceedingly pleasing to persons who were, as Richard Barwell was pre-eminently, great private merchants :—

"9. Having revised and maturely considered of the orders given in the 179th Paragraph of our Letter of the 23rd March 1770 for confining the residence of the members of the Council to the seat of the Presidency, and not suffering any of the Board, the Resident of the Durbar excepted, to act as chiefs of any of the subordinate factories ; and finding that, notwithstanding our well intentioned views expressed at the time of establishing the abovementioned dispositions, that they have not been attended with those salutary effects we then hoped they would produce, we can no longer desist from revoking, and do hereby revoke, the afore-said orders, confiding that thereby the regularity of the Government in Bengal will be greatly promoted and the intolerable monopolies carried on in the country so oppressive to the inhabitants and prejudicial to our revenues and investment—particularly the raw silk will be totally extirpated.

"10. Upon this repeal of our said Directions, and in consequence of the essential services and merits of Mr. Richard Barwell whilst he was at Bauleah and on other occasions, we hereby direct that he be appointed to the chiefship of Dacca, if he shall make that appointment his choice.

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12. Becher resigned the Company's service in January 1771, before the order for his dismissal arrived in India. He had been nominated by the Court ( March 23, 1770 ) to succeed Cartier as Governor. Floyer and Russell had been brought by Lord Clive from Madras in 1765 to supersede the Bengal civilians. Russell had left Bengal before this order arrived, and Floyer returned to Europe in preference to returning disgraced to Madras. Floyer returned to the Madras Presidency in 1775 as Chief of Masulipatam. Grand : *Narrative*, p. 65.

[ cciii ] "11. And as the conduct of Messrs Reed and Lane in support—a proper obedience to the orders—of the Court of Directors per *Lapwing* in 1770 was meritorious, we direct that they be preferred to the chiefships of the subordinate Factories on the first vacancies that shall happen after your receipt of this letter, in proof of our constant desire to distinguish those who shall maintain the propriety of a due execution of such orders".

Writing of Cartier in 1772, Col. Thomas Deane Pearse, "the Father of the Bengal Artillery", describes the late Governor, as "a man of good character, and amiable in the extreme;" but adds "there never was a governor less capable, less active, less resolute. Much I fear the distress of the country is beyond even Mr. Hastings' abilities to restore".<sup>13</sup> Cartier's administration is signalised by the incidence of the terrible famine and consequent disasters and the conflict between the two arms of his government—the Select Committee and the Council. It must also be noticed that the establishment of two Comptrolling Councils of Revenue so far from the Presidency, in the days of slow and often interrupted communications, involved a most serious weakening of the Governor's central power. But Verelst had already called attention to the feebleness and want of system in the government at Fort William. In a farewell letter to his Council, he had written at the end of 1769 :

"You are no strangers to a want of method which reigns here in the affairs of this government. The whole weight of business is confined to two departments—the Committee and the Council. Our time is consequently taken up with debating, preparing, and dictating on the subjects that come before us. Our decisions are retarded, and the springs of government relaxed. The attention and memory are unnecessarily burdened ; neither of these departments are thoroughly defined or understood . . . . . The Court of Directors themselves are at a loss where the precise line of each is drawn ; sometimes attributing to the Council what belongs to the Committee, and again transferring from one to the other, without rule or distinction. It is well worth your consideration, Gentlemen, to adopt some better plan for the administration and for the dispatch of business. This can only be done by dividing the burden, which now rests upon a single body, amongst the separate departments, and bringing each object of deliberation into a compact compass. Was the number of the Board increased to sixteen, the business distributed to district committees, and whatever is prepared in these inferior departments finally referred to the President and Council, it is obvious how much utility and convenience would result from [ cciv ] it. The Governor, who is head of all departments, and ought to superintend the whole, would be relieved from that intricate diversity of objects, which things, as they are at present conducted, he is obliged to comprehend at one view, and that generally at a time when his constitution has been previously impaired by long residence in this climate".<sup>14</sup>

13. "Memoirs of Colonel T. D. Pearse." *Bengal : Past and Present*, vol. ii, p. 317. Grand (Narrative p. 33 ) speaks of "the placid Mr Cartier, then Governor, with a Council as inefficient as himself."

14. Verelst : *View, etc* , Appendix p. 124.

In the same letter, Verelst lays his finger on the weak spot of the English administration—the commercial preoccupation of its members. While the official salaries of members of council were inconsiderable, the position of chief of a subordinate factory was one which afforded its occupant an easy opportunity of making a fortune by private trading. Consequently the Senior Servants of the Company, when nominated to the Council, retained their posts at far distant factories, and but seldom attended at the Council Board, and, in their absence, questions of the greatest importance would be decided by the juniors residing at the Presidency. At the same time the juniors at the Presidency would, for obvious reasons, be unwilling to sit in judgment on complaints brought before the Council against the conduct of their powerful seniors at the factories, to whose lucrative positions they hoped to succeed in course of time. In March, 1770, the Directors ordered that the members of Council should, with the exception of the Resident at the Durbar, be excluded from the up-country chiefships, but in November, 1772, as has been seen, this order was cancelled.

In a minute, dated 19th September 1766, Clive had remarked to the Select Committee "where such immense revenues are concerned, where power and authority are so enlarged, and where the eye of justice and equity should ever be watchful, a Governor ought not to be embarrassed with private business. He ought to be free from every occupation in which his judgment can possibly be biassed by his interest". To this obvious piece of reasoning a somewhat dramatic effect had been given, when Lord Clive, surrounded by his Council, made his appearance at the Mayor's Court, where the Governor solemnly entered into a penalty-bond not to receive any other emoluments than those of his public office—its salary, recognised commissions, and perquisites.

In 1769 Verelst saw very clearly that the exclusion of the Governor from private trading was a policy which needed to be extended to the members of Council.<sup>15</sup> While the pay of a councillor was comparatively small and the total income of the chief of a subordinate station depended on his capacity in trading, it was impossible to bring [ ccv ] the most experienced heads to the Council Board. The same reflection was applicable to the Select Committee, whose members, with perhaps the solitary exception of W. B. Sumner, all obtained appointments far from the Presidency.

During Cartier's administration several steps towards decentralisation were taken. In March 1771, a Comptrolling Committee of Accounts for the control and direction of every department of the Company's affairs in Bengal and Behar was appointed, and also a Comptrolling Committee of Commerce. The appointment of Comptrolling Councils of Revenue at Murshidabad and Patna has already been noticed. On April

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15. "It is notorious," Verelst writes (*op. cit.* App. p. 124), "that, at times, the agents of the lowest servants have domineered over the ryot, and kept the officers of government in a state of awe and subjection, and it cannot be supposed that more respectable names are not equally misapplied. It would be as easy to change the genius and manners of the people as to prevent the banians, and followers of men in station, from abusing their master's name. Chastisement may deter the oppressor for the moment;

1st 1771, a Comptrolling Committee of Revenue<sup>16</sup> met for the first time at the Presidency, and held sessions until the 10th October, 1772, when it was superseded, as will be seen in the next chapter, by Warren Hastings' first Revenue Board. The creation of this Comptrolling Committee of Revenue at the Presidency terminated the existence of the office of Collector-General with whom the Chiefs of Chittagong, and the Residents at Burdwan and Midnapur had hitherto corresponded.

It was during the year 1771 that the growing dissatisfaction of the Directors with the Naib Diwan, Muhammad Riza Khan, came to a head. At an earlier time the good opinion of the English in regard to that important functionary had been expressed in terms of endearment similar to those which Fagin, the Jew in Dickens' *Oliver Twist*, was wont to confer on himself. Muhammad Riza Khan seems to have enjoyed the full confidence of successive Residents at the Durbar, and it would appear that the Directors were in the end influenced by unfavourable reports sent home by non-official advisers. On August 29th<sup>17</sup>, therefore, the Directors record their censure on the conduct of the Naib-Diwan, and in the 21st paragraph of their letter announce the famous resolution "to stand forth as Duan, and, by the agency of the company's servants, to take upon themselves the entire care and management of the revenues." In the 13th paragraph Muhammad Riza Khan is charged with corrupt practices in connection with a monopoly of salt; the 18th paragraph charging him with "cornering" the grain during the famine has already been quoted; the 19th paragraph relates to balances of the Dacca revenues alleged to be left unadjusted since the time when Muhammad Riza Khan was Nabob at that place. The letter then continues:

[ccvi] "20. When we accepted that the influence and protection of the Company would have had such happy effects throughout the provinces of Bengal as would ensure to us a considerable increase in the revenues of the Dewanny, we cannot but be deeply affected to see ourselves disappointed in that reasonable expectation and to experience such a reverse as now appears by the great diminution of those revenues, particularly in the province of Bahar. Indeed, when we turn our view to the flourishing state of Burdwan and the increasing revenue of that province, under the immediate inspection of our servants, we cannot but conclude that the

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but, in such cases, the servility of the people must be removed, before oppression can be eradicated. Perwannahs have been recalled and suppressed; excellent effects will doubtless flow from it; but the idea of name and authority" will still be held up by rapacious agents for their own ends. Verelst: View, etc. Appendix. Mill's ridicule of the argument that large pay is a security for pure service is hardly in touch with the facts. The difficulty was this: it was desirable to keep the Senior Servants at the Presidency in order to form a strong administration, but to do this would have been to place them at a great disadvantage to their juniors, and promotion to the Select Committee or Council, would in this case have been a punishment and only nominally promotion. H. H. Wilson's note on Mill's argument is sound, but it overlooks the facts.

16. The proceedings of this body are preserved complete at the Bengal Secretariat Record Room.

17. *Bengal: Past & Present*, vol. xi, p. 228.

diminution of the Dewanny revenues must have been owing to the misconduct and malversation of those who had the superintendency of the collections.

"21. But as we have further reasons to suspect that large sums have, by violent oppressive means, been actually collected by Mahomet Reza Cawn, on account of the Dewanny revenues, great part of which he has appropriated to his own use, or distributed amongst the creatures of his power and the instruments of his oppressions, we should not think ourselves justified to the Company or the public were we to leave him in future the management of the Dewanny collections; and as the transferring the like trust to any other minister could yield us little prospect of reaping any benefit from the change, we are necessitated to seek by other means the full advantage we have to expect from the grant of the Dewanny. It is therefore our determination (to stand forth as Duan, and by the agency of the Company's Servants, to take upon ourselves the entire care and management of the revenues.) In confidence, therefore, of your abilities to plan and execute this important work, we hereby authorize and require you to divest Mahomet Reza Cawn and every person employed by or in conjunction with him or acting under his influence of any further charge of direction in the business of the collections; and we trust that in the office of Duan you will adopt such regulations and pursue such measures as shall at once ensure to us every possible advantage and free the ryots from the oppressions of zemindars and petty tyrants under which they may have been suffered to remain, from the interested view of those whose influence and authority should have been exerted for their relief and protection.

"22. From the grounds that we have to suspect that Mahomet Reza Cawn has abused the trust reposed in him and been guilty of many acts of violence and injustice towards his countrymen, we deem insufficient the depriving him of a station which may be made subservient to the most corrupt purposes; it is therefore our pleasure and command that you enter into a minute investigation not only of the causes [ccvii] to which the decrease of revenue may be ascribed, but also into Mahomet Reza Cawn's general conduct during the time the Dewanny Revenues have been under his charge. And, as the several complaints and accusations already noticed to you, are of a nature too serious to be suffered to pass over without the most rigid enquiry, we have directed our President to order him to repair to Calcutta there to answer to the facts which shall be alleged against him, both in respect to his public administration and private conduct. And while we enjoin you to pursue your researches with unremitting care and attention, we expect you to obtain not only a just and adequate restitution of all sums which may have been withheld from the Circar or the Company, either by embezzlement or collusion, but also the redress of such injuries as individuals may have sustained by the exercise of his power or the effects of his avarice.

"23. As such appearance of corrupt practices in the administration of Mahomet Reza Cawn leave us room to apprehend that he may have been equally unfaithful

in the discharge of the trust he held under the Nabob, we further direct that you make a full and strict enquiry concerning the application of the large sums which have passed through his hands on account of the annual stipends paid to successive nabobs in consequence of the Treaty in 1765 for the maintenance of their family and the charge of sepoys for the support of their dignity and if it shall appear that any part thereof has not been duly accounted for by him, we require you to demand and receive for the benefit of the Circar the amount of all such sums as he may have withheld or applied to his own separate use.

"24. Though we have not a doubt but that by the exertion of your abilities and the care and assiduity of our servants in the superintendency of the revenue the collections will be conducted with more advantage to the Company and ease to the natives than by the means of a Naib Duan, we are fully sensible of the expediency of supporting some ostensible minister in the Company's interests at the Nabob's Court to transact the political affairs of the Circar and interpose between the Company and the subjects of any European Power in all cases where they may thwart our interest or encroach on our authority. And as Mahomet Reza Cawn can no longer be considered by us as one to whom such a power can safely be committed, we trust to your local knowledge, the selection of some person well qualified for the affairs of government and of whose attachment to the Company you shall be well assured. Such person you will recommend to the Nabob to succeed Mahomet Reza as minister of the Government and guardian of the Nabob's ministry; and we persuade ourselves that the Nabob will pay such regard to [ ccviii ] your recommendation as to invest him with the necessary power and authority.

"25 As the advantages which the Company may receive from the appointment of such minister will depend on his readiness to promote our views and advance our interest, we are willing to allow him so liberal a gratification as may excite his zeal and ensure his attachment to the Company. We therefore empower you to grant to the person whom you shall think worthy of the trust an annual allowance not exceeding three Laaks of rupees, which we consider not only as a munificent reward for any services he shall render the Company but sufficient to enable him to support his station with suitable rank and dignity. And here we must add that in the choice you shall make of a person to be the active minister of the Nabob's government we hope and trust that you will show yourselves worthy of the confidence that we have placed in you, by being actuated therein by no other motives than those of the public good and the safety and interest of the Company.

"26. As the disbursement of the sums allotted to the Nabob for the maintenance of his household and family and the support of his dignity will pass through the hands of the minister who shall be selected by you, conformable to our preceding orders, we expect that you will require such minister to deliver annually to your Board a regular and exact account of the application of the several sums paid by

the Company to the Nabob. This you will strictly examine and we trust that you will not suffer any part of the Nabob's stipend to be appropriated to the minister's own use, or wasted among the unnecessary dependents of the Court, but that the whole amount be applied to the purposes for which it was assigned by us."

The arrest and trial of Muhammad Riza Khan, which took place in the first year of Hastings' rule, have been described in the various histories of the time, and it is generally admitted that the ex-Naib-Diwan established his innocence although it is the express purpose of Grant's *Analysis of the Finances of Bengal* to exhibit him as "the great defaulter." The proceedings on the trial, 12th February to 13th September, 1773, are preserved in a separate volume at the Bengal Secretariat, but it is improbable that any student has been at pains to analyse their contents. The proclamation, issued in Calcutta on the 11th of May, 1772, may be said to mark the close of the first chapter of the Company's revenue administration.<sup>18</sup>

[ ccix ] "Notice is hereby given that the Honorable the Court of Directors have been pleased to divest the Nabob Mahomed Reza Cawn of his station of Naib Dewan. The Honorable the President and Council have in consequence directed that the charge of the office of Dewan shall for the present be assumed, and the duties of it performed by the Chief and Council of Revenue at Murshidabad. All Zemindars, Fouzedars, Aumils, Naibs, Teshdars, Officers of public Cutcherries, Chobeydars, Mundals, Ryots, and inhabitants of the country in general are, in consequence, now informed that the Chief and Council have this day entered on the charge of their office ; and strict injunction is hereby conveyed that application is to be made to them in all matters which in any way relate to the Dewanee, as ample authority in that department is, for the time being, vested in them. To obviate the plea of ignorance on the part of individuals with respect to such branches of business as appertain to the office of Dewan, the Chief and Council have been pleased hereunto to annex a particular list thereof, and they now signify that they expect the strictest attention and most implicit obedience be paid to this their publication and order, and that any deviation from the Regulation here laid down will incur the severest resentment of Government.

*List of the several Branches of Business appertaining to the Dewanee.*

The appointment of Aumils into the Mofussil.

The Collections of Districts and whatever belongs thereunto.

Bundabust of the Pergunnahs.

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18. On 16th April, 1773, the Directors wrote : "As to any hopes which Mahmud Reza Khan may entertain of profiting by changes in the Court of Directors, those hopes must speedily vanish : for, however different their sentiments may be in some particulars, they heartily concur in the propriety and necessity of setting him aside and of putting the administration of the Company's affairs in the hands of persons who may be rendered responsible in England for their conduct in India ... If the abolition of the office of Naib Dewan, and stepping forth as principals should in any degree alarm your European neighbours, we rely on your prudence for removing every improper jealousy that may be entertained on that account".

The examination of Dewannee Sunnuds, under the signature of the Nazim for Talooks, charity lands, and religious endowments of Bermoter,<sup>19</sup> Dewoter,<sup>20</sup> etc.

The investigation and forming of a Hustabood of the districts.

The incorporating or separating one district from another.

The Constituting and dismissing of Zemindars with the concurrence of the Nazim.

The cultivation of the country, and whatever tends to increase its revenue.

Taking cognizance of complaints against the unjust demands of Aumils and Zemindars, which occasion the desertion of the Ryots.

The ascertaining the boundaries of each zemindary, and adjusting the complaints of disputants not deserving of capital punishment.

The investigation of Talooks, and adjusting the rights of Talookdars.

The issuing of Perwanas to enforce payment of the revenue ; and the calling out of the Mofussil, on the complaints of the oppressed".

This proclamation, as has been said, marks the close of the first chapter of the English administration. During the events belonging [ ccx ] to this chapter, the Company had come to see that it was impossible to remain mere passive receivers of the revenues of the vast territory which had come under their influence. During the terrible year of the famine, the Mughal machinery had in a sense done its work, as the following official figures pathetically reveal :—

						Rs.	A.	P.	G.
Bengal Year.									
1175 (1768-69)	Nett Collections	...				1,52,54,856	9	4	3
1176 (1769-70)	Year of dearth, which was productive	...							
	of the Famine in the following year	..				1,31,49,148	6	3	2
1177 (1770-71)	The year of the Famine and Mortality	...				1,40,06,030	7	13	2
1178 (1771-72)	...		1,7,26,577	10	2	1			
Deduct the amount of									
deficiencies occasioned									
in the revenues by									
unavoidable losses to									
Government	...		3,92,915	11	12	3			
						...	1,53,33,660	14	9 2 ✓

Thus, as Hastings pointed out in 1772, "notwithstanding the loss of at least one-third of the inhabitants of the province, and the consequent decrease of the cultivation, the nett collections of the year 1771, exceeded even those of 1768". The old machinery might serve at a time of distress to keep the revenue by violent means up to the standard of a time of plenty, but in the meanwhile the country was perishing. It was necessary, therefore, to substitute responsible human agents for the working of a governmental machine. To "stand forth as diwan" was the logical development of a situation Verelst had but incompletely appreciated, when, in 1769, he wrote :

19. Brahmottara, land granted revenue-free for the maintenance of Brahmans.

20. Devottara, land granted revenue-free for the maintenance of idols, temples, etc.



"Experience must convince even the most prejudiced that to hold vast possessions, and yet to act on the level of mere merchants, making gain our first principle ; to receive an immense revenue without possessing an adequate protective power over the people who pay it ; to be really interested in the grand and generous object—the good of the whole and yet to pursue a narrow and partial end, are paradoxes not to be reconciled and highly injurious to our national character, dangerous to the best defended establishment, and absolutely bordering on inhumanity. The people give us the labour of their hands, and in return, we owe them our protection. Common prudence as well as the laws of Society, require that those obligations are reciprocal, or the tie must soon be dissolved; for the firmest security of every Government is the affections of the people ; and for obtaining them, there never, perhaps, presented a more favourable field than what the English possess in Bengal." The mildness of our Government, properly diffused through these provinces, will form so conspicuous a contrast to Mommedan despotism, that it must bind them to our cause for ever".<sup>21</sup>

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21. *Verelst : Op. cit.*, Appendix. p. 122.

## CHAPTER XI.

### THE EARLY ADMINISTRATION OF WARREN HASTINGS.

[ccxi] Warren Hastings, appointed to succeed Cartier in the chair of Governor and President of Fort William, arrived at Calcutta, about the 20th of February 1772, but it was not until April 13th that Cartier made over the keys of office <sup>1</sup> The new Governor brought to his task an intimate experience of Bengal and a familiarity with the Persian and Hindustani languages. At the age of seventeen he had made his first arrival at Calcutta, and after three years spent as a "writer" at Calcutta, he had been despatched to serve as a commercial assistant in the Cossimbazar Factory. From Cossimbazar an easy ride would have brought Hastings into Murshidabad, where, until January, 1756, the masterful Ali Verdi Khan kept court. When in 1756, Siraj-ud-daulah ordered the English Factory at Cossimbazar to be seized, Hastings, who before this time had been promoted to the council of the Factory, was made prisoner. Released from confinement, Hastings made his way to join the refugees from the sacked Fort William, at Falta, where in September, he attached himself to Clive's troops on their way to recapture Calcutta. After Plassey he was sent to Murshidabad on special duty, and, in August 1758, <sup>2</sup> succeeded Luke Scrafton as Resident at the court of the Nawab. In 1760 he was promoted to the Council Board at Fort William, and there he was consistently and almost solely the supporter of Governor Henry Vansittart. In November 1764, he resigned the Company's Service, and, in February 1765, sailed for England by the *Medway*. The fortune he had acquired during fourteen years of service was but a moderate one, and Hastings, always prodigal with his money, soon found it necessary to seek for re-appointment. His first application was rejected, but in 1769, thanks to the kindly offices of Lord Clive, he was nominated Second of Council at Fort St. George.

This very brief survey of Hastings' earlier Indian career will suffice to remove a serious misconception. Writers of Anglo-Indian history have too often felt it to be their duty to imitate Macaulay's picturesque phrases, and consequently we have been told that Warren Hastings worked his way up to recognition by the kind of industry that would entitle a wholesale draper's assistant to a junior partnership in the business. As a matter of fact, although Hastings must, during his time at the Cossimbazar Factory, have acquired a technical [ccxii] knowledge of sericulture and of the various kinds of cloths required for the Company's investment, his work first as Resident and then as

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1. Cartier remained in Calcutta, occupied in his private affairs, till the end of the year.

2. The formal appointment was dated 14th November, 1759. *Bengal: Past & Present*, vol. iv, p. 627.

a member of Council, brought his powerful mind to bear upon all the essential problems involved in the development of a British Empire. <sup>3</sup>

On August the 28th 1771, the Court had drawn up and signed the memorable letter in which they ordered the President and Council "to stand forth as Diwan and by the agency of the Company's servants to take upon themselves the entire care and management of the revenues". The effect of this decision cannot be expressed better than in the words of James Mill. "The change," he writes, <sup>4</sup> "was enormous, which it was the nature of this decree to procure. It was a revolution much greater, probably, than any previous conjuncture—than even the change from Hindu to Mahommedan masters, had been able to create. The transition from Hindu to Mahommedan masters had only changed the hands by which the sword was wielded, and favours were dispensed; the machine of government, still more the texture of society, underwent feeble alterations; and the civil part of the administration was, from conveniency, left almost wholly in the hands of Hindus. [A total change in the management of the revenues more deeply affected the condition, individually and collectively, of the people of India, that it is easy for the European reader to conceive. It was an innovation by which the whole property of the country, and along with it the administration of justice, were placed upon a new foundation.]"

On the 13th of April, Hastings had entered on his office of Governor; on the 14th this edict of the Court of Directors reached him. Mill has observed that "the Directors appear to have had no conception" of the nature of the change they had dictated. Not only had they ordered their servants to assume openly the management of the revenues, but they had abolished the office of Naib Diwan, at a time when the Nawab himself was a minor. They had, as the Committee of Circuit expressed the matter, "been pleased to direct a total change of system, and have left the plan and execution of it [ccxlii] to the discretion of the Board, without any formal repeal of

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3. It is true that when Hastings was appointed to succeed Scrafton, the collection of the assigned revenues of Burdwan and Nadia were, without his knowledge, transferred from the Resident to a native official at Hughli, and this official was none other than Nanda Kumar ("Nuncomar"). Hastings writes in protest to Clive, "I never had the least suspicion that the transferring of the Burdwan and Nuddea affairs to Hughli proceeded in the least from any ill opinion of my conduct or capacity, but that it would be construed as such by everybody here, as it was universally believed that I was appointed at Moradbaug (a suburb of Murshidabad where the Resident had his dwelling) principally for those collections". It was, however, due to Hastings' technical knowledge of Mughal custom, that the discovery was made in time that for the Twenty-four pargānas the English had only secured a *parwana* from the Nawab—a deed which would not be binding on Mir Jafar's successor. The requisite *Sanad* was obtained by Hastings' action. The motive for removing the collection of the assigned districts from Murshidabad to Hughli was not distrust of Hastings, but an anxiety lest the great men at Murshidabad should take offence at the sight of so much treasure being conveyed under their eyes to the English Treasury.

4. Mill: *Op. cit.*, vol. iii, p. 365.

the regulations which they had before framed and adapted to another system—the abolition of which necessarily includes that of its subsidiary institutions, unless they shall be found to coincide with the new”.<sup>5</sup>

A Governor possessed of less self-confidence than Hastings might have availed himself of this lack of positive instructions to postpone even the consideration of the large measures the new policy required ; but to Hastings the very want of direction in detail would have been welcome as affording him a wider freedom in action. As interpreted by Hastings the determination of the Directors involved the re-union of the Nizamut and the Diwani, but in English hands. In his letter of November the 3rd he pointed out that “while the Nizamut and the Dewannee were in different hands,” the “efficacy” “of the Nizamut courts” “was destroyed by the ruling influence of the Dewannee”. He took it for granted that the separation of the two functions of government existed no longer, and this assumed reunion consequently formed the basis of Hastings’ regulations of 1772.

// On May the 14th, 1772, the Governor and Council came to a determination as to “the constitutional ground work of all their subsequent proceedings”, and their decision may be summarised as follows :—

1. The lands were to be let out to revenue farmers for a period of five years.
2. A Committee of Circuit, consisting of the Governor and four members of the Council, was to be appointed to visit the principal districts and form the five years’ settlements.
3. The Servants of the Company employed in the districts under the designation of “Supervisors” or “Supravisors” were henceforth to be termed “Collectors”.
4. In each of the several districts a native officer, under the title of Diwan, should be appointed to inform or check the Collector.
5. That no banian or employee of the several collectors should be permitted to farm any portion of the revenues.
6. Presents to the Collectors from zamindars and others, and from the ryots to the zamindars were forbidden.
7. The Collectors and their banians were forbidden to advance money to the ryots.

In June the Committee of Circuit thus constituted set out on their labours. Mill follows a curious mistake made by the compilers of the *Fifth Report* of 1812 when he says that Hastings, though a [ccxiv] member of this Committee “did not proceed”, for Hastings himself, in a letter to his friend, Josias Dupré, the Governor of Madras, writes : “On the 3rd June I set out with the Committee. We made the first visit to Kissingurah (Krishnagar), the capital of Nuddeah [Nadia] and formed the settlement

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5. *Sixth Report of the Committee of Secrecy, 1772*, p. 18.

of the district, farming it for five years.<sup>4</sup> We proceeded next to the City [i.e. Murshidabad] where we arrived the last of the month, here a variety of occupations detained me till the 15th of the last month—two months and a half. This period was employed in settling the Collections, and the government of the districts dependent on Murshidabad, which were large, very numerous, and intricate; in reducing the Nawab's stipend from 32 lacs to 16; and in forming a new system for conducting the business of the Dewannee or revenue".

The members of the Committee of Circuit were :—

The Governor, Warren Hastings

Samuel Middleton <sup>6</sup>

James Lawrell

John Graham

Philip Milner Dacres.

On August 20th, the Committee of Circuit, at Cossimbazar (for Murshidabad) made an important recommendation, to which effect was given in the October following. In the place of the existing Comptrolling Council of Revenue, they recommended a Board of Revenue, consisting of the whole Council, should be formed at the Presidency. The Khalsa (*Khalisah*) or Exchequer, was also to be removed from Murshidabad and brought down to Calcutta. At Cossimbazar also the Committee drew up regulations for the administration of justice which will be considered at the conclusion of the present chapter.

An explanation of the motives for making so great a change was in a special degree necessary, for the Governor had, as has been already noticed, availed himself of the opportunity, afforded by the Company's failure to accompany their general order with instructions in detail, to assume that the order to abolish the office of the Naib Diwan and to place the collections in the hands of the Company's servants, authorised him to abolish the Councils of Revenue, created by the Company's orders, at Calcutta, Murshidabad, and Patna, and to establish the head seats of justice and revenue at a place where the Governor and Council could personally and directly control the [ccxv] work in hand. No doubt the logic was cogent, but the Court of Directors were a body of men who seldom evinced any regard for abstract argument, and were seldom ready to draw distinctions in favour of a servant gifted with the initiative faculty, between the spirit

6. Had been Resident at the Durbar since the departure of Richard Becher in June 1771, and was now acting as Diwan, Mahomed Reza Khan having been placed under arrest, and brought in a state of honorable captivity to Calcutta for an investigation of his administration. Middleton was not in attendance at Krishnagar, and he only joined the Committee on July the 7th. Middleton "arrived in Bengal on 24th August, 1753". He had been dismissed for signing a former protest made by Clive and others against the insulting language of the Court of Directors in regard to their servants, but was pardoned by the Court's General Letter of 23rd March, 1770. He is favourably mentioned in the *Seir Mataquherin*. He is often confused with a much younger civilian Nathaniel Middleton ("Memory Middleton"). See *Bengal : Past and Present*, vol. iii, p. 394 and vol. iv, p. 365.

and the letter of their written orders. In effecting the great changes of 1772, Hastings knew, better than any man, that what he enterprised would be judged by his masters at home by the coarse and ready method of calculating in pies and gandas, the increase or the decrease of the revenues. He knew too that at every step he would be treading heavily upon the feet of fellow Company's servants in Bengal. In a letter to his friend, the Governor of Madras, written shortly after his return from the labours of the Committee of Circuit, he confessed that the powers entrusted to him "tend to destroy every other that I am possessed of, by arming my hand against every man, and every man's of course, against me".

On September the 15th Hastings left Cossimbazar to return to Calcutta. Middleton remained behind to enter upon his newly defined duties as "Resident of the Durbar, Collector of Rajeshai, and Chief of Cossimbuzar". Dacres, Lawrell, and Graham continued the circuit, visiting Dacca (Oct. 1—Nov. 27), Rangpur (to Dec. 30th), Dinajpur (to Jan. 26th), Purnea (Feb. 2-9), and Rajmehal (18th Feb.).

On October the 13th, 1772, the new Committee of Revenue assembled for the first time, with Warren Hastings as President. On March 12th, 1773, the Committee was joined by Messrs. Dacres, Lawrell, and Graham, returned from the arduous duties of the circuit. Before the arrival of these gentlemen, the remaining members of the Council had been employed in preparing five years' settlements for Hughly, Midnapore, Birbhum, Jessore, and the Calcutta lands. "These," Hastings explains (significantly leaving Chittagong out of account), "together with the district allotted to the Committee of Circuit, compleat the whole of Bengal, excepting Burdwan, where the lands are already lett in farm, on leases of five years, which do not expire till the end of the Bengal year 1182 (A. D. 1775)".

ii The proceedings of the Committee of Circuit at Krishnagar are of importance, as what was done there, under the eye of the Governor, was intended to form "an idea of the plan on which the settlement of the whole province will be formed." In response to a public advertisement calling on would-be farmers to make offers, a number of proposals had been received, but these the Committee found to be "expressed in so vague and uncertain a manner, and differed so widely from each other in form, that it was impossible to make a comparison, or to ascertain the proportional amount of each; and the few only that were intelligible, contained very low and disadvantageous terms." Contrary to their original intention, the Committee decided to have recourse to a public auction. Before doing this, however, they set about the formation of "an entire new hustabood or explanation of the diverse and complex articles which were to [ccxvi] compose the collections". This examination afforded an opportunity for distinguishing between those articles of revenue which "were of long standing and has been chearfully (*sic*) submitted to by the ryots", and those which "appeared most oppressive to the inhabitants, or of late establishment". Under the former, Hastings, in his letter of November 3rd, 1772, includes :—

1. Duties arbitrarily levied by the zemindars and farmers upon all goods and necessities of life passing by water through the interior part of the country.

2. The *Bazee Jumma* [*bazi jama*] or fines, petty crimes or misdemeanours.

3. The *Haldarry* [*haldari*] or tax upon marriage, "which yielded a trifling revenue to the government, was very injurious to the State, and could only tend to the discouragement and decrease of population—an object at all times of general importance, but more especially at this period, from the great loss of inhabitants which the country had sustained by the late famine, and the mortality which attended it".

Although it was perceived that the abolition of these unconstitutional cesses would temporarily decrease the revenue, yet it was hoped that in time the most satisfactory effects would ensue from a measure designed to encourage the free course of trade and the increase of population and to promote the general ease of the country.<sup>7</sup>

The Committee also took steps "to secure the inhabitants the quiet possession of the lands, whilst they held them on terms of cultivation". The *amilnamas*, or leases granted to the farmers, were to record in precise terms the exact claims upon the ryots, and all demands not covered by the *amilnamas* were to subject the farmer to the severest penalties. The ryots, on the other hand, were to receive from the farmers pottas (pattahs), in a form drawn up by the Committee, in which the conditions of the holding and the dues of revenue under its several heads, were to be recorded faithfully. Steps were also taken, by providing a regular allowance (establishment) for the cutcherries of the district, to bring the charges of collection within a known limit.

While the sale of the farms was in process, the Rajah or Zamindar of Krishnagar put in a belated proposal for the farm of the district. The sales, as far as they had been proceeded with, showed that the Rajah's offer was far from being equitable, and the Committee moreover felt that its honour had been pledged by the acceptance of offers already made. For these reasons, "joined with the well-known subtle and faithless character of the Zemindar" it was determined to reject [ccxvii] his proposals. This incident, however, occasions in Hastings' account of the doings of the Committee some remarks on the rights of zamindars and talukdars which, in view of future debates on the subject, are of importance.

Hastings points out that there were but two modes of dealing with the zamindars and talukdars.

1. "To let the lands to farm; to put the renters in entire possession and authority over them, obliging them to pay each zemindar or talukdar a certain allowance or percentage for the subsistence of himself and family".

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7. The Commission of 1776 reported that by this kindly designed measure some quite innocent sources of revenue were, together with those of a noxious kind lost to the Government, and that the ryot often did not benefit, as the zamindars, etc., continued to collect, but not to pay over their receipts to the Treasury.

2. "To settle with the zemindars themselves on the footing of farmers, obliging them *first* to enter into all the conditions of a farmer's lease; *secondly* to pay the same revenue that could be expected from the farmers; *thirdly*, to give responsible securities; and *fourthly*, to admit a reserve in favour of government for making, during the course of their actual lease, an exact hustabood (valuation from accounts), or a measurement of their possessions, in order to ascertain their true value at a future settlement, should the present accounts be found to be fallacious, or concealments suspected".

To the first mode Hastings makes the objection that its adoption would expose the zamindars to an unfair risk. In the first place it would reduce them to the position of mere pensioners, and tend to efface their claims as proprietors. In the second, as the farmers made good their hold on the estates, the original zamindars would pass away, and during the succession of minors, the inheritance would be involved in obscurity, doubt, and controversy. "To expose the zemindars and talookdars to this risk, is neither consistent with our notions of equity, nor with your [*i.e.* the Directors'] orders, which direct that we do not by any sudden change alter the constitution, nor deprive the zemindars, etc., of their antient privileges and immunities".

In favour of the second mode, Hastings argues :

"From a long continuance of the lands in their families, it is to be concluded they have rivetted an authority in the district, acquired an ascendancy over the minds of the ryotts, and ingratiated their affections. From causes like these, if entire deprivation were to take place, there could not be expected less material effects than all the evils of a divided authority, prejudicial to the revenue, and desertion and desolation of the lands.) Whereas from continuing the lands under the management of those who have a natural and perpetual interest in their prosperity, provided their value is not of too great an amount, solid advantages may be expected to accrue. Every consideration then sways us, where it can be done with the prospect of the advantage before mentioned, to adopt the second mode in settling with the inferior zemindars and talookdars.

[ ccxviii ] "First, an equivalent revenue may be thereby obtained, with security for its punctual payment.

"Secondly, the converting them into farmers establishes the government's right of putting thier lands on that footing, whenever they shall think proper; the awe of which must constantly operate to secure their good behaviour and good management.

"Thirdly, the clause of scrutiny to which they are subjected, will also have the same tendency at the same time it may be strictly put in force where there is cause to suspect concealments, or a prospect of increase to the revenue".

Having adopted this argument on behalf of the second mode, the Committee, while, for the reasons mentioned, refusing the proposals of the Zamindar of Krishnagar, exempted the taluks in the district from public auction, and formed a settlement with the talukdars on the basis of an exact valuation of their lands. On the completion of the entire settlement, the Committee, selected for each district a "fixed diwan", to co-operate with and check the collector in the superintendency of the revenues.



At Cossimbazar, close to Murshidabad, the Committee of Circuit dealt with the settlement of the province of Rajshahi and the neighbouring hazuri districts and taluks. The offers of the farmers and zamindars having been compared, those of the latter were found to be the most advantageous. The following passage introduces a famous person in the native annals of Bengal :—

“A settlement for five years was accordingly concluded with the Ranny Bowanny [Rani Bhawani] the zemindar of that district, whose substance, credit, and character rendered the conditions of her offer the most desirable, especially as she consented to the Committee’s plan of sub-dividing the lands into fourteen lots or farms, and engaged to deposit the farmers *cabooleats* [*kabuliyats*] or agreements as a collateral security with her own, for the actual payment of her rents. No other proposals being given in for the Eastern Division of Radshahy, it was in like manner farmed to the Zemindar, whose knowledge of, and long established reputation in, the country enabled her to make far more advantageous offers for this also than any other person; and we doubt not that we shall realize the whole of the revenue from these important and extensive districts, which will receive an advantage, besides a reduction of the expence of the collections, in being thus united under the hereditary and ancient Proprietor”.

It was found necessary to appoint five additional collectors for these districts, owing to “the intricacy of the Huzoor-zilahs which have been distributed among them”.

[ **ccxix** ] The settlement of Mahmudshahi and Jessore, which had been entrusted to Mr. Lane, a member of the Board, was completed before August the 10th. That of Birbhum, Bishnupur, and Pachet [Panchkot] was settled by the Council on an increasing revenue, on a plan similar to other farmed lands. At Hughli the determination of the Council to let the lands in small farms, was modified by offers for large lots, which proved too tempting to be resisted, while, at the same time, the pleas of a number of talukdars and petty zamindars were accepted, and lands granted to them on terms similar to those accorded to their compeers by the Committee of the Revenue at Krishnagar. The Calcutta lands were found to be “completely farmed”, but “some of the farmers have flown off from their engagements and absconded”—a feature in the system of revenue farming which gives weight to Hastings’ remark that the zamindar would not so easily run the risk of losing his inheritance “by eloping from his district, which is too frequently practised by a farmer when he is hard pressed for the payment of his balances and is frequently predetermined when he receives his farm”.

✓ The five years’ settlement formed in 1772 was, thus, based on two leading ideas.

✓1. That the letting of the revenues in farm to persons making voluntary offers was an eligible method of discovering the real value of the lands.

✓2. That a settlement with the established zamindars and talukdars, on conditions similar to those required from the farmers, was preferable to letting the lands to other persons.

These principles are further explained by Hastings in a minute entered on the Proceedings of Council, 22nd April, 1775.

“When the zamindaries are of moderate extent, the zamindars attend to the management of their own business, and agree to reasonable terms ; it is certainly better that the revenue should be settled with them than with any other persons. This was the opinion of the late Administration, and, if I am not mistaken, stands frequently recorded on their proceedings. In the five years’ settlement a greater portion of the country was actually farmed to the zamindars themselves than to other persons, but objections occurred to prevent this plan from being universally adopted. None of the zamindars are men of substance, nor, in general, is there any other means of recovering their balances than by the sale of their lands ; and the depriving them of their inheritance, even when done with the strictest justice, is always attended with some degree of odium, and is an act of severity which the late administration wished to avoid. Where the zamindars are minors, and where they are themselves incapable of, or inattentive to business, the settling of rents with them is subjecting them to be deprived of their inheritance by the misconduct of their servants, upon whom the fear of their [ccxx] master’s zamindaries being sold cannot be supposed to have so much influence as the hope of present profit. In some parts of the country, especially on the frontiers, there is no security against balances by a sale of the lands, because purchasers are not to be found. How reasonable soever it appears that the zamindars should not be solicitous for the good condition of their own estates, yet it is frequently a maxim of their policy to let them rather fall to decay in order to reduce their jumma (their rated revenue). The zamindars, especially in large zamindaris, have often been found to possess an influence, which they have exercised to the oppression of the ryotts, the injury of Government, and the interruption of the peace of the country, and to destroy this influence has been deemed a desirable object. These are what I recollect of the arguments which occurred to prevent the farming to the zamindars themselves from being adopted as the general plan for the settlement of the revenue, and I know not how they can be obviated, till by proper regulations and a course of time, the landed property in the country is put upon a more desirable and more permanent footing”.

The Committee of Circuit were concerned with the Company’s commercial affairs as well as the high problems of the administration of revenue and justice. At Cossimbazar, for instance, they took into consideration the subject of the decline in the silk investment. Samuel Middleton, on being relieved of the supervision of the revenue collections throughout the whole of the Diwani portion, was placed in charge of the Cossimbazar factory—a business he was to negotiate as well as the revenue affairs of Rajshahi. Thomas Pattle <sup>8</sup> who had been commissioned to hold an inquiry into the silk provision at Bauleah, was appointed Commercial Resident at that place, revenue collector

8. See *Bengal : Past & Present*, vol. I, p. 160.

of Lashkarpur, and second of Council at the Cossimbazar Factory. A newly appointed collector of Bhushna, Mahmudshahi, etc., was also to be Commercial Resident at Comercolly, and third at Cossimbazar, while Richard Phipps, Superintendent of the Rangpur filature, was to be entrusted with the charge of the revenue collections in Goraghat and Idrakpur, under the superintendence of the Collector at Rangpur. In regard to Maldah it was determined that "the undermentioned districts which lye contiguous to Maulda, and in which the Resident represents that a number of weavers and other dependents of the Factory reside, shall be formed into a collection, and put under the Resident of Maulda Factory, which will not only contribute to promote the success of the investment, but also prove a fund for supplying its resources. "This commixture of commercial with governing occupations serves to show that the Committee of Circuit forms an intermediate landmark between two stages in the Company's history. The Committee assigned [ccxxi] to the Superintendent of the Murshidabad *Pachotra*,<sup>9</sup> or inland custom house, in addition to his original duties, the collectorship of Rokanpur, Amberabad, Thana Katwah, and Salburi; and to the Superintendent of Murshidabad mint <sup>10</sup> the Collectorship of seventy-six hazuri taluks. In each of these two cases the revenue to be realised was estimated at Rs. 6,50,000.

The Committee of Circuit also endeavoured to put into execution the Court's orders for an inquiry into the scandals connected with the Famine of 1769-70. On the 25th July, 1772, the Committee published a proclamation calling on all persons able to give evidence as to the alleged monopolies in grain to do so; but it would seem that the only result of this proclamation was that Devi Singh, the victim of Burke's unscrupulous declamation at the Hastings Impeachment, and in 1772 the Diwan of Purneah, was sent down a prisoner to Calcutta, accompanied by documents from the Collector [G. G. Ducarel] which, not only established his innocence, but are witness to his endeavours to administer relief to the sufferers.

Hastings' most questionable policy in appointing Nanda Kumar's son, Gurudas, to the Office of Diwan of the Nawab's household led the Committee, while at Cossimbazar, to enter into a review of long-standing charges of forgery and treason against Nanda Kumar.

The General Regulations for the administration of justice proposed by the committee of Circuit during their stay at Cossimbazar,<sup>11</sup> and subsequently brought into force, are based on the ancient division of authority between the Nizam and the Diwan. To the Nizam, as the supreme executive power, was apportioned the criminal, and to the Diwan, the civil jurisdiction. Following this distinction, the Committee recommended that in each district two courts should be established, viz.

9. William Byam Martin.

10. James Irwin.

11. Colebrooke : *Supplement to the Digest*, pp. 1-13.

1. *Mufasssal Diwani Adalat or Provincial Court of Diwani* exercising jurisdiction over all disputes concerning property, real or personal ; all causes of inheritance, marriage, and caste ; all claims of debt, disputed accounts, contracts, partnerships, and demands of revenue. Claims to zamindaris were, however, reserved for decision by the President and Council. (In this Court, the Collector was to preside on the part of the Company "in their quality of the King's Dewan," and was to be assisted by a Provincial Diwan nominated by the President and Council, and by the ordinary officers of the Cutcherry.<sup>12</sup>)

[ccxxii] 2. *Faujdari Adalat*, exercising jurisdiction over all cases of murder, assaults, frays, quarrels, adultery, and breaches of the peace. Here "the Kazi or Mufti of the district and two Moulavies [*maulvis*] shall sit to expound the law, and determine how far the delinquents shall be guilty of a breach thereof ; but the Collector shall also make it his business to attend to the proceedings of this court, so far as to see that all the necessary evidences (witnesses) are summoned and examined ; that due weight is allowed to their testimony ; and that the decision passed is fair and impartial, according to the proofs exhibited in the course of the trial ; and that no cause shall be heard or determined but in open court regularly assembled."<sup>13</sup>) This Court was empowered to inflict corporal punishment, labour on the roads, etc. ; but where capital punishment was required, the confirmation of the sentence by the Nizam was necessary.

At the Presidency of Fort William superior Courts were to be established.

1. *Diwani Sadar Adalat* to receive and determine appeals from the Provincial or Mofussil Diwani Adalats ; "the president, with two members of the Council, shall preside therein, attended by the Diwan of the Khalsa, the head Kanungos and other officers of the Cutcherry ; in case of the absence of the President, a third member of the Council to sit ; that is to say, not less than three members to decide an appeal ; but the whole Council may sit if they chuse it."

2. *Nizamut Adalat*. "A chief officer of Justice, appointed on part of the Nazim, shall preside in the Nizamut Adalat, by the title of Daroga Adaulut, assisted by the Chief Kazi, the Chief Mufti, and other capable Moulavies ; that their duty shall be, to revise all the proceedings of the Faujdari Adaulut ; and in capital cases, by signifying their approbation or disapprobation thereof, with their reasons at large, to prepare the sentence for the warrent of the Nazim, which shall be returned into the Mofussil, and there carried into execution ; that with respect to the proceedings in this

12. At the head seat of Government a member of Council was to preside in the local subordinate Diwani Adalat. See Art. VIII.

13. At the head seat of Government a member of Council was to preside in the local Faujdari Adalat. The method of appointing the officers of the local Faujdari Adalats was settled in July, 1773. The Darogha of the Sudder Nizamut Adalat the Kazi-ul-Kazaat and the Chief Mufti recommended persons for appointment but the parwanahs were not issued until they had received the sanction of the Governor-General.

Court, a similar control shall be lodged in the Chief and Council, as is vested in the Collectors in the districts ; so that the Company's Administration, in the character of the King's Diwan, may be satisfied that the decrees of justice, on which both the welfare and the safety of the country so materially depend, are not injured, or perverted, by the effects of partiality or corruption."

The effect of the Regulations so far was not to institute new courts of justice, but to transfer the Courts of Appeal from Murshidabad to [ccxxiii] Calcutta, to vest in the Collector the right to preside in the local civil court of his district, and to prevent miscarriages of justice in the local criminal court. The right of the Nawab, or Nazim, to confirm or to alter sentences of death was carefully preserved. The highly miscellaneous duties of the Collector must have been considerably increased by the regulations which imposed upon him the charge of the records and the transmission of abstract registers of causes heard to the Presidency.

The regulations of 1772 were designed to provide for the reformation of a number of long-felt abuses, *e.g.*

1. Under the breakdown of the Mughal system the local courts, beyond easy reach from Murshidabad, had tended to fall in abeyance, and, in their default, the revenue officers of the zamindars and other local magnates had in practice exercised a jurisdiction to which they had no lawful title.<sup>14</sup> The Courts of Justice had tended to become resorts open only to the rich, while the poor brought to them were liable to be ruined by the expenses of the journey and the neglect of their lands during their absence. In practice also it was usually found impossible to assemble the council of jurisconsults, which the Mughal law required when the Kazi and his colleagues were unable to arrive at a unanimous decision ; not being able to obtain a decision from the jurisconsults, the Kazi had been wont to enforce his own personal opinion.

2. The failure of the ancient courts to preserve full and proper records of their proceedings.

3. The imposition of "detestable", yet authorized, fines and commissions as payments of debts enforced by the Courts. Under the Regulations of 1772, the *faujdari bazi jama*, a species of fine held to be particularly obnoxious, was abolished, and the Kazi and Muftis were granted monthly salaries in lieu of their former increments by fines levied. The 35th Regulation deserves to be quoted as throwing a lurid light on the internal condition of Bengal :

"That, whereas the peace of this country hath, for some years past, been greatly disturbed by bands of decoits, who not only infest the roads, but often plunder whole villages, burning the houses, and murdering the inhabitants : and whereas these abandoned outlaws have hitherto found means to elude every attempt, which the vigilance

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14. The 11th article gave the Farmer of a parganah authority to decide in disputes not exceeding Rs. 10.

of Government hath put in force, for detecting and bringing such atrocious criminals to justice, by the secrecy of their haunts and the wild state of the districts which are most subject to their incursions ; it becomes the indispensable duty of Government to try the most rigorous means, since experience has proved every lenient and ordinary remedy to be ineffectual. That it be, therefore, resolved, that every [ccxxiv] such criminal, on conviction, shall be carried to the village to which he belongs, and be there executed, for a terror and example to others ; and for the further prevention of such abominable practices, that the village of which he is an inhabitant shall be fined, according to the enormity of the crime, and each inhabitant according to his substance ; and the family of the criminal shall become slaves of the State, and be disposed of, for the general benefit and convenience of the people, according to the discretion of the Governor”.

In their covering letter, the Committee of Circuit explain that “the decoits of Bengal are not, like robbers in England, individuals driven to such desperate courses by sudden want ; they are robbers by profession and even by birth ; they are formed into regular communities, and their families subsist by the spoils which they bring home to them”. The writers admit that “the ideas of slavery, borrowed from our American colonies, will make every modification of it appear, in the eyes of our countrymen in England, a horrible evil”, but they point out that in India the condition of slavery is one of mild domestic subordination, and that therefore reduction to the state of slavery would be no real degradation for persons who in a state of liberty were by ancestral calling robbers and enemies of society.

The 9th Regulation shows how the Collectors were intended to serve as the protectors of the wronged :

“That as nothing is more conducive to the prosperity of any country than a free and easy access to justice and redress, the Collectors shall at all times be ready to receive the petitions of the injured ; and further, to prevent their being debarred this access from motives of interest, partiality, or resentment, in the officers or servants of the Cutcherry, that a box shall be placed at the door of the Cutcherry, in which the complainants may lodge their petitions at any time or hour they please. That the Collector shall himself keep the key of this box ; and each court-day, have such *arzees* as he may find in it, ready in his presence by the *Arizbeggy* of the Cutcherry”.

In April, 1773, the Government established a General Bank for the Province of Bengal—a design which it was believed would prove to be “of greatest utility and convenience not only to the Company in drawing the receipts of their revenues from the out-districts to the Presidency, but also to private merchants in making their advances to the aurungs,<sup>15</sup> and otherwise in facilitating and rendering secure the course and circulation of their trade”. The Court of Directors, however, expressed disapproval of

the plan on which the Bank had been established, and this measure proved to be but a short-lived experiment. <sup>16</sup>

[ccxxv] The question now remains : how far were the measures adopted successful? It may be observed in the first place that in defending his early administration, Hastings, in 1776, makes a special plea of pressing circumstances under which the Committee of Circuit framed its policy. In a minute entered on the proceedings of Council, 29th May 1776, Hastings writes :

“Before the Gentlemen of the Majority lay down their plan which they would have adopted in assessing the revenues, let them reflect on the state in which they would have found the country ; the effects of the famine had been felt with unequal severity in different provinces ; some districts were almost depopulated, others had hardly suffered by that calamity ; the state of Bengal was totally changed ; the ancient hustaboods or valuations of the lands could no longer be depend upon ; the distresses of the people in many places called for a remission in the rents, the exigencies of the Company at the same time would scarcely admit of a diminution under such embarrassment Are the Gentlemen of the Majority absolutely certain that they would not have let lands to farm on a reduced but gradually increasing rent, and for a fixed term of years? Are they certain that they would have considered themselves better qualified to judge of the real value of the lands than those who offered to farm them? Would they have informed a zamindar or farmer who proposed to pay a revenue of twenty lacks of rupees that he had offered five lacks too much? And do the savings and economy of their Administration encourage them to think that they would have conducted the affairs of Government at a far less expence than any of their predecessors? When they declare that they would have proportioned their demands to abilities of the people, I have a right to ask them by what rule their ability could have been ascertained? When they assert that they would have collected a less revenue, I have a right to expect that they will point out how the service of Government might have been reduced in the same proportion? Until this is done the Company perhaps will consider their plan of government as merely chimerical, and class it with schemes for paying the National Debt or reducing the land tax in England.”

The criticism of the settlement of 1772 was, however, based on the fact of the progressive balances of revenue unrealised, and the heavy sums to which necessary remissions amounted to. While Hastings exposed unfairness in the financial statements put forward by his adversaries, and denied that “the actual collections had” fallen so short as would be imagined from the style of the unrealised revenue to some extent were due to an over-valuation of the lands. He pointed out the inconsistency of the majority who at one moment charged him with having in the years 1772-74, obtained a less revenue than his [ ccxxvi ] predecessors, and the next accused him of having exacted from the

16. The Regulations for the Bank are given by Price : *Notes on the History of Midnapore*, pp. 201-206.

country more than it could bear. In 1773-74 the total revenue of Bengal and Behar amounted to Rs. 2,30,76,415, and if the profits arising from the sale of salt and opium were added, to above 245 lacs. Compared with this the former years had produced—

				Rs.
1768-69	...	...	...	2,65,99,065
1769-70	...	...	...	2,33,44,847
1770-71	...	...	...	2,40,84,559
1771-72	...	...	...	2,55,12,069
1772-73	...	...	...	2,22,78,356

In a minute on the Proceedings of Council, 8th March, 1775, from which these figures are extracted, Hastings writes :—

{‘It is true that the lands were let in general too high, but the excess cannot prove a real loss to the Company, nor was it to be prevented. The exact value of the lands was known only to the Zemindars and old farmers, from whom it was not to be expected that they should part with their knowledge. To find out the real value the most probable method was to let them to the highest bidders ; and the fairest and the only means which would not admit of conclusions against the characters of the gentlemen concerned in forming the new settlement was to dispose of the farms by public auction. ( This proved, however, such a source of competition that lands in general were overrated, especially in Nuddea [Nadia]. ( Where this happened, abatements have been allowed, that is to say, the excess which ought not to have been put upon the rents, if it could have been avoided, has been taken off, and a compitant knowledge has been obtained of the stated capacity of the lands, throughout the provinces, which will be of great advantage in forming the next settlement when the term of the present shall have expired.” )

The Majority were on scarcely safer ground when they descended from the high ground of exact statistics to the consideration of the corrupt dealings of the revenue servants. It has been seen that the Committee of Circuit had distinctly ruled that no banian or native dependent of the Collectors were to be permitted to hold revenue farms. In a minute, dated 15th September, 1775, the Majority formulate a charge on this score, which amounts to an indictment of the Governor-General, on the ground of grossly corrupt dealing. They write :

“When we affirm that farms to the amount of 13 lacs and a half per annum, and contracts for providing the Company’s investment to the amount of 16 lacs more, could not have been heaped upon the Governor’s Banian, or his son, or his brother, entirely for their own profit, we do not pretend to [ ccxxvii ] give the gross and palpable proof of a communication of interest between the master and his servant ; this perhaps is impossible. The Court of Directors, however, will observe that in all the abuses already proved, the Banian is constantly the ostensible man in whose name the farm or contract



is held by his master. Mr. Fleetwood's banian is nominal farmer of Sharigar : Mr. Thackeray's of Silhet : Mr. Christie's of Banjora and Apole : Mr. Barton's of the salt-farm of Belloa ; and we have reason to believe that not less than one-third of the Company's lands in these provinces are, or have lately, been held by the banians of English gentlemen. The Governor's banian stands foremost and distinguished by the enormous amount of his farms and contracts, to say nothing of the large sums standing in his name in the accounts of money received from the Rannies of Rajeshay and Burdwan, which have either been proved by the production of original papers at the Board, or by witnesses upon oath. Our opinion of Mr. Hastings will not suffer us to think that a participation of profits with his servant would have been repugnant to his principles. To assert, as he does, that it would have been opposite to his interest seems too extravagant to deserve an answer."

It seems to have been a fact that Thackeray <sup>17</sup> did actually farm the revenues of Sylhet under the name of a native agent, and it is certain that he was censured for so doing by both the Court of Directors and the Governor General, but although Thackeray is spoken of as a Collector, he probably for technical reasons was exempt from the restriction made by the Committee of Circuit. Christie was, not a Collector, but a private marchant. The Governor's banian was most certainly under no restriction, and Hastings quit candidly writes :

"The reasons which prevailed on the late Board to grant the pergunna of Baharbund to Cantoo Baboo, my servant, will appear in the Consultations of the 12th and 14th July, 1774, in the Revenue Department. To those I refer : you will find that this is not a part of the Zamindary of Ranny Bowany [Rani Bhawani] nor ever in her possession, but a mehal or district, depending immediately on Government and being on the frontier of the province ; that no kind of indulgence was shewn to my servant in this grant, but an advantage procured for Government, by the peshkush or fine to be paid, and by the security which the collections of it would naturally derive from being in the charge of a man of business and property. The sunnud was never granted, though ready drawn up and in my possession, from the time of the order of Council ; nor, of course, the peshkush paid, [ ccxxviii ] because I chose to defer the confirmation of it till the assembly of the new Council. The Majority in their separate meeting of the 17th instant have thought proper to deprive Cantoo Baboo of this grant, for reasons which they are yet to seek ; one indeed they have assigned, namely, that the person in whose name it was granted was described as a man of credit and property, but proved on enquiry to be a boy of 10 years of age. You, Gentlemen, need not be told that it is the constant practice of the Gentoos to register all deeds and contracts in the names of their sons. Loknaut Nundee, the nominal zamindar, is the son of Cantoo Baboo whom the Board intended by that description."

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17. W. Makepeace Thackeray, grand-father of the novelist. Thackeray was succeeded at Sylhet by that most interesting person—the Hon. Robert Lindsay. See Firminger : *District Records of Sylhet* (Assam Secretariat Press).

Hastings goes on to say that he had permitted Kantu Babu to quit many of his farms, that "many of his farms were taken without my knowledge, and almost all against my advice," that he (Hastings) had no power to prevent Kantu Babu holding farms, and that the babu was in fact in possession of his taluks before his arrival.<sup>18</sup>

In the 77th paragraph of their General Letter of 4th March, 1778, the Court of Directors wrote :

"In our letter of the 5th February, 1777, you were informed that, although it was our wish rather to prevent future evils than to enter into a severe retrospect of past abuses, yet, as in some of the cases before us, we conceived there had been flagrant corruption, and in others great oppressions committed on the native inhabitants, we thought it unjust to suffer the delinquents to pass wholly unpunished, and therefore authorized you to take such steps as you might think proper to be pursued on the occasion, acquainting you at the same time that we should, if necessary, return you the original covenants of those of our Servants who had been concerned in the undue receipt of money, in order to enable you to recover the same for the use of the Company ; and, having reconsidered the subject, we hereby direct, that you forthwith commence a prosecution in the Supreme Court of Judicature against the persons who composed the Committee of Circuit, or their representatives ; and against Mr. Grueber, Mr. Barwell, Mr. Barton, the representatives of Mr. Sheeles, and all other proper parties ; in order to recover, for the use of the Company, the amount of all advantages acquired by the several persons above mentioned, or any of them, from or upon the account of any contracts made for Salt, or for the provision of Salt, or for letting of Salt lands or Farms in the Districts of Dacca, or elsewhere, in the Provinces of Bengal, according to the opinion of the Company's Standing Counsel and Solicitor, transmitted to you by dispatches dated the 5th of February, 1777.

[ccxxix] "78. You already have been furnished with the report of our Solicitor (confirmed by our Standing Counsel) concerning prosecuting the above-named persons; and before the receipt hereof, we trust the arrival of our Advocate-General Sir J. Day will have enabled you to avail yourselves of his assistance in conducting such prosecutions."

It will be of interest to read Hasting's own account of the success of his early measures. He writes :—

"I can add nothing to the reasons recorded in the proceedings of the Committee for the removal of the collections to Calcutta. It has exceedingly added to my labours ; but I have hitherto every reason to be pleased with the change. The Board of Revenue at Moorshedabad, though composed of the junior servants of the Company was superior, before their alteration, to the Governor and Council of the Presidency. Calcutta is now the capital of Bengal, and every office and trust of the province issues from it". "The officers are completely established, and the business in as good train as

18. See Para 27, General Letter of the Court to Bengal, 15th April, 1776.

could possibly be expected after so great a revolution. We have found it advisable also to form a new and distinct department for the business of the revenue, with a separate council house, secretary, and officer ; and it is with pleasure I can add that this department is as regular, and as much in train as if it had existed since the days of Job Charnock.”<sup>19</sup>

So Hastings wrote in the commencement of 1773 ; but the system he had established in the previous year was not to remain in tact for long. His government had, as has been seen, abolished the Revenue Council at Murshidabad and Patna, and the collectors had been given a constitutional position. That Hastings had his misgivings as to the collectors the following extract of a letter to J. Dupré (6th January, 1773) proves :—

“Who was it who said that he had given such laws to his people as they were capable of receiving, not the best that could be formed ? On a similar principle, we have suffered one capital defect to remain in our constitution—I mean the collectors. Do not laugh at the formality with which we have made a law to change this name from *supervisors* to *collectors*. You know full well how much the world’s opinion is governed by names. They were originally what the word *supervisors* imports, simple *lookers on* ; but though this change has taken place before I arrived, yet I found to my astonishment that they were known to the Court of Directors only in their original character. It was necessary to undeceive the Company ; and, to that end we have called those officers by a title which will convey the true idea of their office. It was [ ~~ccxxx~~ ] once intended to withdraw the collectors entirely. They monopolize the trade of the country ; and, of course, prevent the return of the specie by trade, since they trade with the amount of their perquisites. These perquisites I believe to be an oppression on the people and an obstruction of the revenue. They are most of them agents of their own banyans, and they are devils.”<sup>20</sup> And as the collectorships are more lucrative than any posts in the service (the government itself not excepted whatever it may prove hereafter), we cannot get a man of abilities to conduct the official business of the presidency without violence ; for who would rest satisfied with a handsome salary of three or four thousand rupees a year to maintain him in Calcutta, who could get a lack or three lacks, which I believe have been acquired in that, and live at no expense in the districts ? But whatever motives we had for recalling these officers, it appeared that there were among them so many sons, or *elevés* of directors, and intimates of the members of Council, that it was better to let them remain than provoke an army of opponents against every act of administration, by depriving them of their emoluments. They continue, but their power is retrenched ; and the way paved for their gradual removal, and the Court of Directors have sufficient arguments furnished them to order their recall immediately”.<sup>21</sup>

19. Gleig : *Memory of the Life of the Rt. Hon. Warren Hastings*, vol. I. p. 271.

20. This sentence is ambiguous, and an able Hindu writer in the *Calcutta Review* understood it to mean that Hastings regarded the Collectors as “devils”. By “they,” Hastings means the banians.

21. Gleig : *op. cit.* vol. I., pp. 268-69. Among the Orme MSS, preserved at the India Office will be found “Regulations proposed for the Government of Bengal, composed by Mr. Hastings about the year 1765”. See Hill : *Catalogue of Manuscripts belonging to the Library of the India Office*, vol. ii. part i. *The Orme Collection*. Oxford, 1916.

In transferring from Murshidabad to Calcutta the seat of the supreme courts of justice, the head seat of revenue administration and the Khalsa, Hastings was instituting a policy deliberately designed to make the last named place the capital of British Bengal. If Job Charnock is to be considered the founder of Calcutta as a seat of trade, Hastings may be regarded as the founder of Calcutta as the political capital of the British Empire. Although the Great Proconsul was to find himself compelled to acquiesce in a return to old arrangements, and to revive for the time being the importance of Murshidabad, his determination to make Calcutta the capital was never relaxed and in the end was fully accomplished. In the letter of November 3rd to the Court of Directors, he points out the advantages of the change :

1. "While the controuling and executive part of the revenue, and the correspondence with the collectors, was carried by a Council at Moorshedabad, the Members of your Administration had not an opportunity of acquiring that thorough and comprehensive knowledge of the revenue which can only result from practical experience".

[ccxxxi] 2. "This change will afford great relief to the inhabitants of the provinces, in opening to them a more ready access to justice, insomuch that appeals from the decision of the inferior courts may now be made directly to the Presidency, whereas formerly they were first transmitted to the Council at Moorshedabad, and from thence an appeal lay to us."

3. "Another good consequence will be the great increase of inhabitants and of wealth in Calcutta, which will not only add to the consumption of our most valuable manufactures imported from home, but will be the means of conveying to the natives a more intimate knowledge of our customs and manners, and of conciliating them to our policy and government."<sup>22</sup>

In concluding the present chapter, it may be observed that the policy of Hastings in 1772, although it was to be radically affected by [ccxxxi] the order given by the

22. The following statements, which accompanied a letter of Hastings to the Court of Directors in 1775, shows the state of Calcutta trade during the years 1769-74. (Proceedings of Council, 22nd April, 1775).

#### 1. CALCUTTA CUSTOMS HOUSE COLLECTIONS.

Years				Gross duties			Net duties			Paid into the Treasury		
				C. Rs.	A.	P.	C. Rs.	A.	P.	C. Rs.	A.	P.
1769	...	...	...	2,62,765	12	3	2,37,960	12	6	2,24,306	5	3
1770	...	...	...	1,46,801	1	6	1,20,034	4	6	1,44,901	5	6
1771	...	...	...	2,06,166	6	3	1,83,526	13	3	2,01,650	13	6
1772	...	...	...	2,34,792	5	6	2,05,515	4	9	3,07,542	0	0
1773	...	...	...	3,39,484	12	3	3,04,818	11	3	3,06,192	0	0
1774	..	...	...	4,41,045	2	9	4,00,966	12	9	4,08,992	15	6

Calcutta Customs House,  
The 1st January, 1775.

Errors exempted.  
W. Bensley,  
Custom Master:

Court of Directors in 1773 for the withdrawal of the English collectors from the country districts, met with the approval of that capricious governing body. On April the 16th, 1773, they wrote to their Governor in Bengal :

5. "Your attention to the settlement of the Revenues as a primary object has our entire approbation, and it is with the utmost satisfaction we observe that the farming system will be generally adopted ; more specially as the researches and discoveries made in the two preceding years must have nearly ascertained the value and produce of the lands, so that imposition on the part of the farmers respecting the value of the lands and oppression of the tenants may, we hope, be easily avoided.

6. "The extirpation of Mahmud Reza Khan's influence was absolutely necessary, and the apprehending of Shitabroy equally so, as the latter had been too long connected with Mahmud Reza Khan to be independent of him ; but, if that had not been the case, it would have been absurd to continue a Naib Dewan in the province of Bahar after abolishing that office in Bengal ; and as to any hopes which Mahmud Reza Khan may entertain of profiting by changes in the Court of Directors, those hopes must speedily vanish, for however different their sentiments may be in some particulars, they heartily concur in the propriety and necessity of setting him aside and of putting the administration of the Company's affairs in the hands of persons who may be rendered responsible in England for their conduct in India.

7. "Your choice of the Begum for guardian to the Nabob we entirely approve ; the use you intend making of Nundcomar is very proper, and it affords us great satisfaction to find that you could at once determine to suppress all personal resentment, when the public welfare seemed to clash with your private sentiments relative to Nundcomar.

10. "If the abolition of the office of Naib Dewan and stepping forth as principals should in any degree alarm your European neighbours, we rely on your prudence for removing every improper jealousy that may be entertained on that account".

## 2. NUMBER OF VESSELS ARRIVING IN THE RIVER HUGHLI.

Years.	No. of Vessels.	Tonnage.	Increase of Tonnage Annually.
1770 ... ..	95	23,831	—
1771 ... ..	81	25,070	1,239
1772 ... ..	115	26,184	1,114
1773 ... ..	161	37,037	10,833
1774 ... ..	147	43,935	6,898

N B.—The number of arrivals in the year 1774 being less than the foregoing year, and the tonnage more, is owing to the many small coasting vessels being put down in the account for the year 1773, and not included in last year.

H. Wedderburn,  
Master Attendant

## CHAPTER XII.

### THE PROVINCIAL COUNCILS AND THE FAUJDARS.

[ccxxxiii] In their General Letter of the 7th of April, the Court of Directors ordered the English Collectors to be withdrawn from the interior, and the Governor and Council were authorised "to substitute some other plan" of making themselves "acquainted with the exact value of every district and for giving relief to the inhabitants, till you shall be able to send your complete regulations for conducting this branch of our affairs which we have now under consideration". This decision necessitated a thoroughgoing reconstruction of the system established in 1772. It may be noticed in passing that the Court of Directors had expressed in 1769 an opinion on the subject of the Commercial Residents of a very similar kind to that on the subject of the supervisors in 1772.<sup>1</sup>

On November 23rd, 1773, the Board of Revenue met to consider the revision of the system of 1772, which the letter of the Court of Directors necessitated. Already the Council were feeling the burden which the centralising system of the previous year had placed on their shoulders, and yet, at the same time, they foresaw the grave evils which would be bound to ensue from a second revolution following so speedily on the first. They had recourse therefore to a scheme part of which would, they hoped, prove of a permanent nature, while the rest would be but temporary and would admit of modification or complete suppression as the event proved to be necessary. The following is a summary view of the plan.<sup>2</sup>

#### *1. As permanent Establishment.*

1. The districts forming the existing collectorships to remain, with such variations as would render them more easy of control, etc.

2. Each district to be superintended by a diwan or amil, except such as have been let entire to the zemindars or responsible farmers, w.h.o., in such case, were to be invested with that authority.

3. A Committee of Revenue to be formed at the Presidency, consisting of two members of the Board, three senior servants below Council, to meet daily, form

1. On March 17th, 1769, the Court wrote : "26. The great abuses committed by the English Residents throughout the Provinces in the carrying on their private trade induced us to order these Residents to be withdrawn ; but now that we flatter ourselves we have rooted out these baneful monopolizing principles, we shall not be averse to restoring the Residencies where it is absolutely essential to the provision of the investment. If you, therefore, deem it necessary to re-establish a Company's servant in the Residency of Malda, you have our permission, but no other residencies are to be established without our express order."

2. Proceedings of the Board of Revenue, Nov. 23rd., 1773. *Vide* Harington : *Analysis*. vol. II, p. 29 : Colebrooke : *Supplement*, p. 200, *et seq.*

resolutions and orders for current [ccxxxiv] business of the districts, and to report on such extraordinary occurrences, claims, and proposals, as might require the orders of the superior Council, which are to be laid before the Council in their Revenue Department.

4. The Diwan to correspond with the President of the Committee, and the Ray Rayan.

5. Orders to the Diwans to be written in the name of the President and the Committee, sealed with the Khalsah seal.

6. Occasional Commissioners, or Inspectors, to be deputed for special local investigation ; to be chosen from the Company's Servants, not by seniority but elected freely by the Board in consideration of their knowledge of the language and moderation of temper—a single adverse vote of a member of the Board excluding from appointment. The salary of such a Commissioner to be Rupees 1,500 per mensem. The Commissioners not to take with them into the districts banians, or, without, special permission, servants or dependents ; not to lend or borrow money, purchase or sell articles in the districts, or farm taluks, appear as securities, nor to suffer their servants so to do.

7. Orders to be given to officers commanding sepoy forbidding them to detach sepoy for non-military purposes, and forbidding them to trade.

8. Officers of the Faujdari Adalats to be forbidden to hold farms, or to act in Court as Naibs or gomastahs on behalf of non-residents.

9. All complaints from the ryotts to be received.

## 2. *Temporary.*

1. The three Provinces to be divided under five Provincial Councils, each Council to consist of a Chief, four senior servants, Parsian Translator, Accountants and assistants, and a Diwan to be appointed by Government,—and at Calcutta, a Committee of Revenue consisting of two members of the Board, three senior Servants, Secretary, Persian Translator, assistants, and the Ray Rayan as Diwan.

2. The Provincial Councils to correspond with the Governor and Council in the Revenue Department, and the Diwans with the Ray Rayan.

3. The Collectors to be withdrawn from the districts on the termination of their current business.

4. Naibs to be appointed by the Provincial Councils for districts remote from their capitals ; these Naibs to hold courts of Diwani Adalat, according to the Regulations of 21 August, 1772.

In this plan the Committee of Revenue, which must not be confused with either the supreme Board of Revenue which consisted of the whole Council, or the Committee of Revenue formed in 1781, was in its origin to hold jurisdiction over :—

[ccxxxv] The Calcutta Parganahs.

Hughli.

Hijili.

Mysadel [Maisadal].

Tamluk.

Nuddea.

Jessore.

Mahomedshai [Mahmudshahi.]

The taluks of Cantoona<sup>3</sup>

"All lands belonging to persons of credit whose constant residence is in Calcutta".

This subordinate Calcutta Committee assembled at Calcutta till the 12th of May, 1780, when it removed itself to Hughli, probably in order to escape the too close vigilance of Warren Hastings. It is obvious that as two members of Council were among its members at the time when Hastings and Barwell were standing at bay against the rest of the Council, the Calcutta Committee formed a little instrument in Francis's hands for the promotion of the cause of the opposition.

The five Provincial Councils shared the districts in the following manner :—

Murshidabad	{	Rajshahi, E. and W. divisions.
		Ruckanpur.
		Chunacolly.
		Lashkarpur.
		Jehangirepur.
		Khas Taluks.
		Rajmehal.
Burdwan ...	{	Boglepur (including annexations from Monghyr.)
		Currickpor, Jangalterai,
		"The districts under the management of Captain Brooke."
		Burdwan.
		Midnapur.
		Bisnupur.
		Patchet.
Dinajpur ...	{	Birbhum.
		Ramgarh.
		"The districts under the management of Captain Carnac".
		[ccxxxvi] Dinajpur.
		Silberries [Salburi].
		Purnea.
		Rangpur
	{	Edrackpur.
		Baharbund.
		Cooch Behar. <sup>4</sup>
		Rangamati.

3. On 20th. August, 1772, the Committee of Circuit had determined "that the following districts and mahls being in the hands of responsible people shall continue to pay their rents at the Khalsa, but subject to the Provincial Courts of Adawlut established at Moorshedabad, viz :—

Budderpore, etc.	...	Raja Goordass	... Khas Talooks.	}	Hazzoory Mull, etc.
Hichapore	...	Nubbookissen	... Nabobgunge		
Kantoongore	...	Kauntoo Babu	... Bunderdo		
Suckchur and Mahobutpore	...	Joynarain Gosaul	... Assidnagu		
Kolora, etc.	...	Ramchurn Roy			
Houglaw	...	Santiram Singh			
Duckynarainpore	...	Hurry Kishen Tagore".			

4. Regulation XIX. "The Collectorship of Coch Behar to be put up at the same footing as Ramgar, and Currickpore; the officers to receive their orders solely from the Governor, and only to send their accounts to the Councils of their respective Divisions, for the sake of regularity.



Dacca      ... { Dacca.  
Sylhet.  
Attya.  
Cogmari.  
Barbazú [practically the district of Mymensingh.]<sup>5</sup>

Behar was to remain under the jurisdiction of the Chief and Council at Patna ; and Chittagong and Tipperah under that of the Chief and Council of Chittagong (Islamabad) in correspondence with the Board of Revenue.

In 1781, Hastings found himself free to abolish these Provincial Councils. At his impeachment, however, he was charged with inconsistency in thus undoing his own work, and it is, therefore, important to notice, that the Councils were originally devised to serve as but temporary and provisional until a "future and permanent system" could be established. The Committee at the Presidency, although at first granted only a local jurisdiction, it was hoped, would in course of time take over the functions of the Provincial Councils.

"Whenever the accounts and arrangements of any one division shall be so regulated and completed, as to enable them to bring the control down to the Presidency, the Provincial Council shall be withdrawn, and either continue to conduct the business of the Division at the Presidency, or transfer it at once to the Committee." When in 1781, the Provincial Councils were abolished, it was expressly declared that this was done with a view to carry into being the *permanent* system contemplated in 1773, viz., "that all the collections of the provinces should be brought down to the Presidency ; and be there administered by a Committee of the most able and experienced of the covenanted servants of the Company, under the immediate inspection of and with the opportunity of instant reference to, the Governor-General and Council."<sup>6</sup>

[ccxxxvii] In forming this plan Hastings had in view, not only the requirements of the revenue administration, but the actual conditions of the civil service. The restrictions placed on the Commissioners serve to show where the difficulty of forming any such plan lay. In a letter to Laurence Sullivan, 10th March, 1774, the Governor views this difficulty more closely :—

5. Bazuha is one of the sarkars of the *Ain-i-Akbari*, and comprised nearly all the district of Maimansingh, parts of Dacca, Patna, Rajshahi and Bogra. Bazu= 'an arm or wing.'

6. Harington : *Analysis*, vol. II., p. 39. In a letter to the Court of Directors, May 5th, 1781, Hastings writes : "We must declare that in no act of our administration have we observed a greater consistency, or a closer adherence to fixed principles, than in this. The system, which we have thus attempted to establish, was first devised by the President and Council of this Presidency in 1773, and made a part of the same resolution, which distributed the charge of the collections among the late Provincial Councils. These establishments were declaredly formed for the purpose of introducing the former ; and were intended to be gradually withdrawn as experience might render them no longer necessary. The Committee itself was immediately formed, and, to give it greater dignity, two members of the Supreme Council were appointed to superintend it, although it then differed only in name from the other Provincial Councils, and its destined functions were reserved for a future arrangement.

"It is my earnest wish to bring the superintendency of the collections in their detail immediately to Calcutta ; but this must be the work of time. The irregular and loose state of most parts of the province ; the multitude of small farms and talooks in single pergunnas, each separately responsible for its own rents ; and the want of substance in almost all the farmers of revenue, require a near and vigilant control, both for the security of the people from oppression and of the collections from embezzlement, neglect and dissipation. . . . . To prevent the abuse which might be made of this authority, the members of the Supreme Council, from whom the chiefs are selected, have been totally interdicted from trade,<sup>7</sup> and the other members of the Provincial Councils in such articles of it as are most likely to prove pernicious and oppressive to the country. <sup>8</sup> As an inducement to the chiefs and other members of the Superior Council to check any licentious exercise of the influence enjoyed by the inferior members in their private concerns, as an indemnification for their own forbearance, and a pledge for their faithful observance of it, it has been proposed that they shall be allowed each a monthly gratuity of 3,000 Rupees out of a fund raised for that purpose by the profits rising from the sale of opium, which, in consequence of reports made by me to the Board of the opium trade in the province of Behar, soon after my return to the Presidency. has been made a property of the Company. . . . . As the [ccxxxviii] institution of the Provincial Councils for the administration of the affairs of the revenue has often been talked of as a useful expedient, I am afraid it will have many advocates, both here and at home. For my own part, I esteem it as a temporary expedient, both useful and necessary, as I have declared already ; but as a fixed and established regulation, I am apprehensive that it will be attended with consequences oppressive to the inhabitants prejudicial to the revenue, and injurious to the trade of the Company. Each division would be liable to cause a separate tyranny of the most absolute kind, because from its decrees there could be no appeal, but to the Council at Calcutta, who (the President excepted) would be parties in every cause against the appellants, and because the people would lie too much at the mercy of their rulers to dare to lift up their voices against them. The trade of the country

7. Regulation XXIV, however, excepts "diamonds for remittances to Europe, goods purchased in Calcutta to be exported to foreign markets, and goods brought from foreign markets for sale in Calcutta". In compensation for this restriction an allowance of Rs. 3,000 per mensem was granted.

8. Regulation XXVI. "The Members and Assistants of the Provincial Councils, and other covenanted servants of the Company, residing in the subordinate factories and out-districts, to be restricted from making advances for grain, or any such articles as contribute to the subsistence of the natives and cannot be dealt in without oppression to them, such as ghee, oil, fish, jute, matts, straw, bamboos, beetel-nut, and tobacco, and they shall purchase only with ready money at the capital markets of the country." By Regulation XXV, "the Export Ware-house Keeper at Calcutta to be restricted from the trade in such articles as constitute the Company's investment, and the Export Ware-house Keepers of the divisions, and the Residents of Bowlea (Bauliah), Comercolly, Malda, Rangoon, Luckhipoor, and Colinda, from the same articles, within their respective divisions or districts".

would be monopolized or laid under contribution, for who would hazard their property against the combined influence of private interest, and uncontrolled power? The revenues would suffer by taxes levied for private profit on the zemindars and farmers, which the ryots would be compelled to pay for partial and insidious purposes, instead of the general good of the country, or the benefit of the State, and every division would wear a different form of Government, according to the different interests or caprices of those who presided over them. I have always considered the Collectors as tyrants, because the local advantages which they possessed, added to the timidity and patience of oppression which characterizes the natives of Bengal, restraining them from complaining and the chicanery and falsehood, for which they are equally notorious, discrediting every complaint which they might prefer, made it difficult for the Council to restrain them effectually, especially as the same interest by which these offices were acquired, would be always employed more or less to protect them. Yet there lay an appeal to their superiors, nor was it in the power of their patrons to defend them in cases of notorious enormity. But, if instead of junior servants, the members of the Board are themselves to be Collectors, they can be under no restraints. Their judges in all complaints against them will be composed of their equals and expectants of the same privileges. The President, whose more especial care it will be to hear and redress the wrongs of the people, will be a common object of hatred and jealousy to the rest of the Council, because he will not participate in their common interests; so that this system would be liable, not only to the worst species of despotism in the inferior members of the Government, but to cause a total anarchy at the head".

The force of this argument depends on the constitution of the Council, since, up to the time of the Regulating Act of 1773, the [ccxxxix] Chiefs of the subordinate districts, were also Members of Council. In 1775 Hastings writes more favourably of the scheme of Provincial Council, but, as has been made clear, it formed no part of his permanent plan, and in 1781, when the opposition of Francis had been removed, the Councils were abolished. The standing obstacle in the way of any effective organisation of the administration had been the liberty to trade allowed to the junior servants of the Company. To say this is not to assert that the Collectors had consciously abused the position which circumstances of office gave them. The Company's junior servants may be vindicated from the sweeping and harsh charges which were recklessly brought against them as a class, but the general truth of Hastings' assertion, however, remains irresistible. However fair and conscientious the Collectors might desire to be in their trading affairs, they would not be sufficiently conscious of the weight their position gave them in bearing down competition, depressing rivals, and bringing to their support merchants whose bids were tempered by other considerations than the sale-price of the goods in the market. A crowd of banians, gomastas, delols, and the like hanging round the Collector's residence in the early mornings, could not impress the ryot with the sense of the dignity of his ruler; and, in a land such as Bengal is, the master who knows precisely what his servants do in his name, was not so often found as might have been supposed.

The closer intimacy with the people of the country into which the Company's Government was brought by the development of its local administration may be illustrated by the fact that the Company had now to turn its attention to the institution of slavery in Bengal. The following Regulations, passed on 17th May, 1774, by the Governor and Council, not only touch upon that point, but are of interest in throwing light on the working of Hastings' general system within the newly created capital :—

“The establishments hitherto formed for the Police of the Town of Calcutta, having been found insufficient to remedy all the disorders incident to so populous a City, and the Fouzdarry Adawlut being greatly impeded by the proper exercise of its functions, by the continual appeals which are made to it by the European inhabitants in complaints against their servants, by which crimes of the most atrocious nature have remained for months unexamined and the Jails crowded with prisoners, Resolved that the following Regulations be established and made public.

“1st.—That the Fouzdarry Adawlut shall no longer take cognizance of complaints of the Christian inhabitants against their hired servants, or slaves, nor of claims of complaints of Masters of Ships or others, against Serangs, Tindals or Lascars for neglect of duty or desertion.

“2nd.—That the Superintendent of the Police be appointed a Deputy to the Zemindar, and be commissioned, under [ccxl] the authority of the Zemindar, to receive complaints from the Christian inhabitants of Calcutta against their hired servants, or slaves, to punish such as shall be adjudged guilty of offences not capital or highly criminal, with the slipper or rattan, to imprison such servants as shall have received advances of wages, and either deserted, or justly forfeited their service, untill they shall have repaid such advances, to refer accusations of every criminal nature, and against which the law would decree, either death, confinement to the Roads, or lasting imprisonment, to the Fouzdarry Adawlut ; to receive the orders of the Zemindar in all doubtful cases and to report to him his proceedings weekly or oft'ner, if required.

“3rd.—That a Register be kept of all hired servants of the Christian inhabitants of Calcutta under the direction of the Superintendent of the Police, that for the charges of this office, one anna be received from the Master, for every servant so enrolled, and that the Superintendent do give a preference in the hearing of complaints to such as are made against servants who shall be thus registered, and that every endeavour of the Superintendent of the Police shall be exerted for the apprehending of servants enrolled who shall have fled from their service.

“4th.—All complaints from hired servants as described above against their Masters and Mistresses shall be received as usual by the Jemi-dar, or Justice of the Peace, who shall afford the complainant such redress as the law of England prescribes.

“5th.—That the chokeys and servants appointed to each which are fixed round the town of Calcutta, be put under the direction of the Superintendent of Police and that the charge of the maintenance of the peace and the protection of the persons and property

of the Inhabitants within the bounds of the Town of Calcutta, that is to say, within a line drawn by the bridge and Nullah of Baugbazar, Cow-Cross, the Maratta entrenchment and Road adjoining, the same Road to the westward, the Colligaut Road to Colligaut, the Govindpore Nullah and the River, be committed to his charge. That the pay of these Chokeydars be issued to him monthly from the Cutcherry of the Committee of Revenue and paid by him to the Chokeydars.

"6th.—That an office be appointed for the Registry of Serangs, Tindals and Lascars belonging to this Port and for cognizance of all complaints concerning them subject to such regulations and institutions as shall be hereafter established on due enquiry. That all other misdemeanours described by the Judicial Regulations be cognizable as usual by the Fouzdarry Adawlut.

[ccxli] "7th.—That the following be the established rates of hire for servants of Christian families of the corresponding denominations, and that no servant shall have a right to more than those rates, excepting such excesses as he already may have received by the voluntary grant of his Master or Mistress.

"A List of the following Rates of the hired Servants in Calcutta—

*Commencing the 1st of August 1774.*

	Arcot. Rs.		Arcot. Rs.
Consumah	... 8 to 15	Wood and oil	... 3
Butler	... 5 to 8	A house to live in	... 26
Kistmatgar	... 4 to 6	Shaving Barber	... 2
Cook	... 8 to 15	Do. if a household	
Do. mates	... 3 to 6	servant	... 4 to 8
Masshallchey	... 3	Hookerburdar	... 5
Compradore	... 2 to 3	Sirdar Nally	... 4
Peons and Hircarrahs	... 3 to 4	Mates do.	... 3
Hair Barber if more		Coachman	... 6 to 8
than one master	... 2	Sices	... 3 to 4
Do. if a household		Grass-cutters	... 2
servant	... 5 to 8	Washerman for a single	
That each sett of		gentleman	... 2 to 3
bearers consist of 7		Ironingman	... 2 to 3
men 6 of which at		Washerman for a family	... 4 to 6
Rs. 3 per man	... 18	Ironingman for do	... 4 to 6
1 Head do.	... 5	Taylor	... 3 to 6

"8th.—That every servant who shall have received an advance of wages, and shall have quitted his master's service, or absconded himself from it without leave, shall be punished with stripes according to the nature of his offence, and imprisoned untill he shall have repaid the amount of the advance, which shall be due for the day in which he absented himself unto the time to which the service due on such advance shall expire; and every servant who shall leave his master or mistress on the road or at a distance from

their place of abode, without leave obtained, shall be punished with stripes, although an arrears of wages not exceeding a month shall be due to the said servants at the time of their absenting themselves.

"9th.—That every person who shall forcibly detain, or sell any man, woman or child, as a slave without a Cawbala or Deed attested in the usual manner, by the Cauzy [Kazi] of the place where the slave was purchased by the proprietor, or who shall decoy away or steal any children from their families or places of abode shall be punished as the law to which he is amenable shall direct.

[ccxlii] "10th.—That from the 1st day of July 1774 answering to the 21st day of Rubee Asseny or the 11th Assar Bengal style, no person shall be allowed to buy or sell a slave who is not such already by former legal purchase, and any Cauzy who shall grant any Cawbawla after that date for the sale of any slave whatever, shall be dismissed from his employment and such Cawbawla shall be invalid.

"It is necessary to remark upon the two preceding Regulations, that the practice of stealing children from their parents and selling them for slaves, has long prevailed in this country, and has greatly increased since the establishment of the English Government in it. The influence derived from the English name to every man whose birth, language or even habit entitles him to assume a share in its privileges, and the neglect of the judicious precautions established by the ancient law of the country, which requires that no slave shall be sold without a Cawbawla or Deed attested by the Cauzy, signifying the place of the child's abode, (if in the first purchase its parents' names, the names of the seller and purchaser and a minute description of the persons of both) having greatly facilitated this savage commerce, by which numbers of children are conveyed out of the country on the Dutch and especially the French vessels, and many lives of infants destroyed by the clandestine attempts to secrete them from the notice of the Magistrate, there appears, no probable way of remedying this calamitous evil, but that of striking at the root of it, and abolishing the right of slavery altogether excepting such cases to which the authority of Government cannot reach, such for example as laws in being have allowed, and where slaves have become a just property by purchase antecedent to the proposed prohibition.

"The opinions of the most creditable of the Mussulmen and Hindoo inhabitants have been taken upon this subject, and they condemn the authorized usage of selling slaves, as repugnant to the particular precepts both of the *Koran* and Shaister oppressive to the people and injurious to the General Welfare of the country".

The withdrawal of the English Collectors from the districts necessitated some changes in the system of judicature established in 1772, for, as will be remembered, under that system the Collector presided in the civil Mufassal Diwani Adalat and exercised a general power of supervision in the criminal Faujdari Adalat. Under the system established by the Regulations of 23rd November, it was provided (Regulation XX):—

"The Naibs of the districts under each Provincial Council to hold Courts of Diwani Adawlut, according to the present Regulations, and transmit their proceedings to

the Provincial Council ; but appeals in all cases to be allowed from them to [ccxliii] the Provincial Sudder Adawlut of the Division, without the five per cent fee. These Courts of Provincial Sudder Adawlut to be superintended in rotation by the members who are not of the Council of Fort William ; to decide ultimately on all cases not exceeding 1,000 Rupees (in this is included Malguzzary land, of which the jumma or produce is not more than 1,000 Rupees, and alienated or free land, of which the jumma is not more than 100 Rupees) : in cases exceeding that sum, an appeal to lie, as at present, to the Sudder Diwani Adawlut. In all cases, the Provincial Councils at large may revise the decisions of the Superintending member. Complaints against the head farmers, naibs of the districts, zemindars, and other principal officers of Government relative to their conduct in the revenue, to be decided by the Provincial Councils and entered on their proceedings : if any of them think themselves aggrieved, they may apply immediately to the superior Council of Revenue at Calcutta."

In regard to the Faujdari Adalats, it was laid down :

"(XXII). The officers of the Foujdary Adauluts shall be forbid to hold farms or other offices in the Mofussil ; they shall be obliged to reside on pain of forfeiting their employments ; and it shall be declared criminal in any person to officiate in the Courts of Adaulut in the capacity of Naibs or Gomastahs for principals non-resident.

"(XXIII). Complaints against the officers of the Foujdary Adauluts to be made to the Governor, and to be referred by him to the Sudder Nizamut Adaulut, for their inquiry and determination".

While at Murshidabad, in 1772, Hastings had applied to the Begum for her consent for a person "to reside in Calcutta, on part of the Nabob, with powers to affix the seal of the Nazim and the signature on his behalf, to the warrants issued for the execution of the sentences of the Nizamut Adaulut", in order to prevent "the delays which attended the mode hitherto in practice of sending the futwas of the court to the Nabob for his warrant and signature, as also the ill use that might be made of it during the Nabob's minority by the influence of those about his person". The Council, on 23rd November, 1773, approved of this step, and accordingly nominated Sadr-ul-Huq Khan, the person selected, "to the Neabut of this branch of the Nizamut", and added Rs. 500 "to his present salary as Daroga of the Nizamut Adaulut". They also "resolved that the seal be delivered to the Naib, and the President be requested to superintend him in the exercise of that office, as well as in revising sentences of the Adaulut as in passing the warrants and affixing the seal".

The Court of Directors, on being informed of Muhammad Riza Khan's acquittal, had written :

"The conduct of Nundcomar, in the part he has taken against [ccxliiv] Mahomed Reza Cawn, appears to us so very inconsistent and unworthy, that we feel a repugnance to the continuance of his son in the high office of Roy Royan of the province ; and, as the acquittal of Muhammad Reza Cawn warrants us again to employ him, we direct that,

if he can with propriety accept of that office, under the regulations and restrictions established by our resident and Council, and with the salary granted to Raja Gurdass for executing the same, he be forthwith appointed thereto, and receive a proper khellaut (khilat) and such other marks of distinction as are usually conferred on natives on like occasions. We mean not by this appointment to restore Mahomed Reza Cawn to any improper degree of power, but merely to testify our satisfaction on finding his former conduct has been so much better than we expected". "(47) And in regard to Raja Gurdass, though we cannot consent to his remaining Roy Rayan of the province, yet, in consideration of the favourable character we have received of him, we shall have no objection to his being appointed to any office of less importance, if you shall be of opinion that his behaviour has entitled him to such a mark of our indulgence".

The Court unfortunately was under a misapprehension. The office of Ray Rayan had never been held by Gurudas, but its occupant was Maharaja Rajballub (Rajballabh), a son of Dulabram (Ray Durlabh). The office was one invariably held by a Hindu.

The Majority on the Council carried out the faulty directions of the Court in the following remarkable way. They revived the office of Naib-Subah, which had been abolished by the express orders of the Court, and in it they placed Muhammad Riza Khan; and, on the ground that Rajballabh was too young and inexperienced, they dismissed him from an office he had held for several years, and to his place appointed Gurudas, who was some seven years younger in age and had never been employed in the business of the revenues. The result of this change may be exhibited by the terms of the order passed by the majority on 18th October, 1775 :

"Ordered, that that Secretary acquaint Mahomed Reza Khan that the Honorable the Court of Directors have been pleased to approve of the proceedings of the late Board on the investigation of his conduct. . . . . and that he be further acquainted that the Honorable the Governor-General and Council have, therefore, been pleased to recommend him to the Nabob Mobarek O'Dowla to be Naib Soubah, or Minister of the Sircar, and guardian of his minority, with authority to transact the political affairs of the Sircar, to superintend the Foujdary Courts, and the administration of criminal justice throughout the country, and to enforce the operation of the same on the present establishment, or to new-model or correct it. As the Board wish that he shall have full controul of the criminal courts in the character of Naib Soubah, they propose [ccxlv] to remove the Nizamut Adaulut, now at Calcutta to be held in future at Moorshedabad".<sup>9</sup>

Hastings, however, had made use of the opportunity afforded by his connection with the Nizamut Adalat, to make a deeper study of the condition of the criminal judicature and police of contemporay Bengal. In a letter, dated 19th April, 1774, he observes that the benefits arising from a reformed system of judicature and revenue organisation were of necessity "reserved to a period of more established order than the present administration has yet had time to effect". He writes :

9. For a defence of the Majority see a pamphlet entitled *The State of British Authority in Bengal under Mr. Hastings exemplified in the case of Mahomed Reza Khan*. London, 1780.



“1. The abolition of the Foujdarry jurisdiction and the Tannadarries dependent on it. This institution provided for the security of the public peace, and served as the official means of conveying regular intelligence of every disorder or casualty which happened in any part of the provinces. By its removal the confidence of the decoits is encreased, nor has any other means been substituted for giving intelligence to the Government of such events as relate to the peace of the country.<sup>10</sup>

“2. The resumption of the Chakeraun Zemmen (Chakran Zamin) or lands allotted to the Tannadars and Pykes for their service in guarding the villages and larger districts against robbers. Many of the people thus deprived of their livelihood have themselves turned dekoits. Such of the monthly servants allowed by our late Regulations, as receive their allotted pay, are wholly employed for the service of the farmers in the business of their collection ; but the greater part, I am assured, have their wages wholly withheld from them ; so that none of them are of any utility to the community. This may perhaps account for the silence of the farmers with respect to the disorders committed in their districts.

“3. The farming system. Useful as this is to the general welfare of the state and of the people, it is one of the principal sources of the disorderly state of the mofussil, by the removal of that claim, which the public by immemorial usage before possessed to the restitution of all damages and losses sustained by robbers on the zemindars of the country. These [ccxlv] having no longer the same authority cannot be held accountable, as they formerly were, for the effects of it, although the right of Government has never been formally renounced. The farmers, who stand in their places, ought indeed to be made answerable for the disorders proceeding from their neglect ; but, whatever they were compelled to pay on this account would be brought into their balances at the end of the year, and would thus ultimately fall upon Government itself.<sup>11</sup>

“4. I am sorry to enumerate among the encrease of robbers the regularity and precision which have been introduced into our new Courts of Justice. The dread which the common people entertain of the decoits, and the difficulty which even such an impression must attend the conviction of an offender of this kind however notorious,

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10. In the same letter Hastings writes : “At this time I have repeated complaints from all parts of this province of the multitudes of decoits who have infested it for some years past, and have been guilty of the most daring and alarming excesses. I know not whether the knowledge of these evils has been officially communicated to members of the Board. To me it has only come through the channels of private information, as I do not recollect to have heard the slightest intimation of them from the zemindars, farmers, or other officers of the revenues—which may appear extraordinary, but I am assured that the zemindars themselves too frequently afford them protection, and that the reiets, who are the principal sufferers by these ravages, dare not complain, it being an established maxim with the decoits to punish with death every information given against them”.

11. In Hastings' first period of residence in Bengal, an agent in his private trade, had in 1768, been murdered in the Bakarganj district. The fine inflicted on the zamindar remained a balance on the revenue account, and was ultimately remitted as such.

before a Mahomedan Court, which requires two positive evidences (witnesses) in every capital case, affords them an assurance of impunity in the prosecution of their crimes, since they generally carry on their designs in the night or under disguise. Amongst those who have been convicted of robbery, I do not recollect an instance in the proceedings upon their trial, in which their guilt has been proved by evidence, but by their confession only : and this has occurred in so many instances, that I am not without a suspicion that it has been obtained by improper means".

In an earlier letter,<sup>12</sup> Hastings had described some of the difficulties created by the Mahomedan Law, e.g.,

1. When a murder had been perpetrated by means of an instrument not designed for shedding blood, it was held that the intention to kill was not proved, and a fine, instead of death, was inflicted.<sup>13</sup>

2. The privilege allowed to the nearest-of-kin to a murdered person to pardon the murderer. Such a law would render it comparatively easy for a man to procure the assassination of his father.<sup>14</sup>

[ccxlvii] 3. The law that the next of kin to the person murdered should execute the sentence on the murderer. "It would be," writes Hastings, "difficult to put a case

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12. Letter of 1st July, 1773, recorded in the Proceedings of Council, 3rd August, 1773.

13. Hastings gives the following illustration : "I beg leave to quote an instance in the proceedings above referred to. A man held the head of a child under water till it was suffocated, and made a prize of her clothes and the little silver ornaments which she wore. It was evident that his object was no more than robbery, and murder the means both of perpetrating and concealing it. There is too much cause also to suspect the extraordinary manner in which the murder was committed was suggested by the distinction made by the law in question, by which he was liable to no severer retribution than for the simple robbery ; whereas he would have been sentenced to suffer death, had he killed the deceased with a knife or a sword, although he might have been impelled to it by sudden passion and not premeditated design. Yet for this horrid and deliberate act he is pronounced guilty of manslaughter only, and condemned to pay the price of blood, which seems invariably fixed at the sum of 3,333-5-4."

14. On 24th December, 1789, the Collector of Behar wrote : "At present every crime is tried by Mussulman law, the Moguls, as conquerors, having introduced their own code. It were superfluous to refer to my several particular letters to the Foujdari Department to evince the evils of that part of the Mussulman code which makes murder pardonable by the plaintiff : indeed, very little argument is requisite to distinguish an offence against society from one against the individual, punishment for murder being to deter repetition and not to redress the heirs, who ... would be glad to relinquish a painful privilege, which involves timid minds in a delicate embarrassment ; for, if they require blood for blood, it may be attributed to implacability ; they may apprehend the haunting of a punished criminal, or the sanguinary revenge of his relatives. Perhaps too they may fear the anger of the Foujdar, should his intercessions be rejected. ... Not one man in five hundred deserving of death has that punishment inflicted : the certainty of suffering for proved offences operates more effectually to prevent commission than cruel punishment. When, therefore, a system is found easily to discover and quickly to make example, I hope that humanity will not be shocked by staked spectacles writhing in agony, if superior judgment shall resolve that partial torture does not promote general security". Law : *Sketch of some late Arrangements*, pp. vii-viii.

in which the absurdity of it should be more strongly illustrated than in one now before us, of a mother condemned to perish by the hands of her own children for the murder of her husband. Their age is not recorded, but by the circumstances, which appear in the proceedings, they appear to be very young. They have pardoned their mother. They would have deserved death themselves, if they had been so utterly devoid of every feeling of humanity, as to have been able to administer it to her who gave them life”.

On the 19th April, 1774, the Governor proposed that, in order to meet notorious disorders in the country, the following measures should be adopted :—

1. Faujdars should be appointed “at stations hereafter mentioned, for the protection of the inhabitants, for the detection and apprehension of public robbers within their respective districts, and for transmitting constant intelligence of all matters relating to the peace of the country to the Presidency”.

2. The Zamindars, farmers, and other revenue officers should afford all requisite assistance to the Faujdars, and if convicted of neglect in giving assistance, to be made answerable for losses so occasioned.

3. The farmers should restore to the Faujdars the services of the land-servants, and these should be placed under the absolute command of the Faujdars.

4. “Chakeraun zemeen, or lands allotted for the maintenance of the Tannadars and pykes, which have been resumed and included in the jumma, may be again separated from it and applied to their original design”.

5. The jurisdiction of each Faujdar to be ascertained by proper limits ; and the Faujdar be made responsible for the due maintenance of the peace within those limits ; but it might be enjoined on him to send his officers, when occasion should so require, beyond those limits, in order to secure offenders.

[ccxlviii] 6. An office should be established, under the control of the President, for receiving all reports from the Faujdars and issuing orders to them.

7. All persons found guilty of collusion with dacoits should be “adjudged equally criminal with them and punished with death.”

8. The list of proposed boundaries for the thanas :—

- |                     |   |  |
|---------------------|---|--|
| 1. Calcutta         | { | South, Carry Juree.  |
|                     |   | North, Patta <sup>15</sup> village in Calcutta Pergunna.                                   |
|                     |   | East, Baddadherry <sup>16</sup> river.   |
|                     |   | West, Ganges.  |
| 2. Tannah<br>Mucwa. | { | South, Khauler <sup>17</sup> Pergunna by the North of the Roopnarrain <sup>18</sup> river. |
|                     |   | North, Bhetera village.  |
|                     |   | East, Ganges.  |
|                     |   | West, Rangupore village in Booro <sup>19</sup> Pergunna of the Serssutty river.            |

15. Patta. Palta ?

16. Bidyadhari river.

17. Khaler.

18. Rupnarayan.

19. Purah, corruptly Boroh, in Sarkar Satgaon, on west side of the Hughli.

3. Houghley { South, Bhetera village.  
[Hughli] { North, Mirzapore.  
East, Moolgur <sup>20</sup> Pergunna.  
West, Pawan <sup>21</sup> and Doolook.
4. Catwa. { South, Mirzapoor.  
North, Babta.  
East, Tehutt.  
West, Barbucksing Pergunna.
5. Jillee. { South, Purloa.  
Shaepore. { North, the conflux of Sootee and Ganges.  
East, Kulliangunge.  
West, Sultanabad Pergunna.
6. Moorshe- { South, Babta.  
dabad. { North, Muncoot.  
East, Jellengee <sup>22</sup>  
West, Rendia and Gobgaund villages.
7. Goda- { [ccxlix] South, Pudda river, <sup>24</sup>  
garee. <sup>23</sup> { North, the northern boundaries of Laskerpoor <sup>25</sup> and Chundlehey <sup>26</sup> Per-  
gunnas.  
East, Islampoor Pergunna.  
West, Deonagar.
8. Sherpoor<sup>27</sup> { South, Howgaund in Pergunna Catarmull.  
in pergunna { North, Naga Sebegunge <sup>28</sup> in the Pergunna Pertab Bazoo. <sup>29</sup>  
Battere. { East, Chittum river.  
West, Beash Pergunna.

20. Mulghar—now partly in Nadia and partly in the 24-Parganahs, and in Jessore, west of the Kaladah.

21. Pawan, about 8 miles west of Hughli.

22. Jalanghi.

23. Godagari near the junction of the Mahananda and Padma in Rajshahi district.

24. Padma river.

25. Lashkarpur in the centre of Rajshahi district.

26. Chandlai. In the *Ain* in Sarkar Barbakabad as Sandlai. Partly in Rajshahi and partly in Malda district.

27. Sherpur in Bogra district: in Mahamedan times a town of some importance.

28. Seebgunge. On 1st March, 1771, Rennell dates a letter from this place announcing the defeat of a band of fakirs by Lieut. Feltham. Consultations of Mushidabad Comptrolling Council of Revenue, 7th March, 1771.

29. Pertab Baju, in the Bogra district. Included in the *Ain-i-Akbari* in Sarkar Bazuha.

9. Attyah { South, Chandpertab <sup>30</sup> Pergunna in Dacca.  
North, Jaffier Shahy <sup>31</sup> Pookeria Pergunna.  
East, Bowal <sup>32</sup> Pergunna.  
West, Izuffshahy Pergunna.
10. Rajenagur. <sup>33</sup> { South, Backergunge.  
North, the South of Dacca city.  
East, Barampooter <sup>34</sup> river.  
West, Boosna frontier.
11. Backergunge [Bakarganj.] { South, Arungabad <sup>35</sup> Pergunna.  
North, Sundarcool <sup>36</sup> Pergunna.  
East, Jellalpoor <sup>37</sup> Pergunna.  
West, Siedpoor Pergunna in Dacca.
12. Mirzanagur. <sup>38</sup> { South, Dulleapoor Pergunna.  
North, Moorley <sup>39</sup> Cutcherry.  
East, Sultanpur Cururea <sup>40</sup> Pergunna.  
West, Moolgur Pergunna.
13. Itchacada. <sup>41</sup> { [cc] South, Jessore.  
North, Burreshetty village in the Pergunnah Shawoozaul <sup>42</sup> to Coomar <sup>43</sup> river.  
East, Hazee Gunge, Noorullapoor <sup>44</sup> Pergunna.  
West, Kallerhaccoure under the Khas talooks.

30. Chandpartab Bazu. Included in the *Ain-i-Akbari*, Bengal Asiatic Society's edition, (vol. ii. p. 137) as in Sarkar Bazuha.

31. Bazu Zafar Shahi. Included in the *Ain-i-Akbari* (vol. ii, p. 135) in Sarkar Ghoraghat as two mehals, which probably mean the two portions on each side of the Brahmaputra.

32. Bowal, included in the *Ain-i-Akbari* in Sarkar Bazuha (vol. ii, p. 137.)

33. Rajnagar. In Faridpur district. The branch of the Padma here is called Kirtinasa or destroyer of antiquities. The palaces and temples built here by Raja Rajballabh have been destroyed by the river.

34. Brahmaputra.

35. Arangpur. A parganah formed out of Chandradwip. Beveridge: *Bakarganj*, p. 124.

36. Sundarkul=banks of the Sugandha or Sunda river. *Ibid.*, p. 124.

37. Jalalpur, the name of a large parganah in Faridpur and Dacca, *Ibid.*, p. 52.

38. Mirzanagar. "When this district [Jessore] was first occupied in 1781, Mirzanagar was one of the five thannahs then existing; Bhusna and Mirzanagar being, in fact the two powerful thannahs." Westland: *Jessore*, p. 203. *Ibid.*, p. 134.

39. Murli. "The head-quarters of Jessore was first at Murli, two miles from the present station". Westland: *Op. cit.*, pp. 114-5.

40. Sultanpur Khararia. See map in Westland: *Jessore*.

41. Ichacada or Itchakada, 4 miles west of Magurah, in north-west of modern Jessore district. See Westland: *Op. cit.*, p. 212.

42. Shah Ujjyal. 43. Kumar. See Westland: *Op. cit.*, pp. 4, 8, 9.

44. Narullapur. See Beveridge: *Bakarganj*, p. 408.

14. Beer-  
bhoom.      { South, Bissenpoor. [Bisnupur.]  
                 { North, Jellasorepoor frontier.  
[Birbhum]    { East, Barbucksing<sup>45</sup> frontier.  
                 { West, Deogur.

9. "The Tannas of Calcutta, Moorshedabad, Burdwan, Dacca, and Deenagepoor [Dinajpur] may be placed under the control of the Chiefs, the Committee of Revenue, and the Provincial Councils, but the immediate jurisdiction and official management of each must be entrusted to a single hand : it will find him sufficient occupation."

In recommending this scheme, Hastings stated that he had not included Behar in his plan, as he did "not know that it requires the like provision for the maintenance of its peace," and he further explained that he has not as yet been able "to ascertain the stations for the northern part of Bengal, or the eastern division of Dacca," an admission which serves to show the vagueness and tentative nature of the information at the governors's disposal.

It was not contemplated that all these faujdari stations should at once be framed, and Hastings was content to recommend that "an immediate trial be made of the stations at Cutwa, Mirzanagar, and Eechacauda". It appears on the proceedings of Council, on 9th November, 1775, that the only "Foujdari Chuclas established at that date were those of Hughli, Catwa, Mirzanagur and Boosna."<sup>46</sup>

The faujdari system introduced in 1774 was very vigorously criticised by the opposition members of the Council, and it was also complained of as oppressive by Seid Golam Hossein in his *Sier-i-Mutaqherin*. It is needless to repeat these criticisms, since the VIth Resolution of 6th April, 1786, candidly admits that the establishment of faujdars and thanadars "has by experience been found not to produce the good effects intended by the institution."

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45. Barbaksingh. Included in the *Ain-i-Akbari* (vol. ii, p. 139) as Barbuksail. In south Birbhum.

46. Colebrooke : *Supplement*, p. 127.

## APPENDIX

[ccli] The following paragraphs from the General Letter of the Governor and Council to the Court of Directors, 18th October, 1774, will throw some further light on the important subject of slavery in Bengal :—

“21. The establishments hitherto formed for the Police of the Town of Calcutta having been found insufficient to remedy all disorders incident to so populous a City, and the Phouzdarry Adawlut being greatly impeded in the proper exercise of its functions by the continual appeals which are made to it from the European inhabitants in complaints against their servants, by which crimes of the most atrocious nature often remain for months unexamined and the jails crowded with prisoners, we took this subject under our consideration in the month of May last, and resolved upon certain Regulations calculated to ease the Phouzdarry Adawlut in the cognizance of complaints of masters against their servants for venial offences, and to introduce better order in the Police of the Settlement by vesting a degree of authority in such matters in the Superintendent of the Police, that these Regulations might be generally known and meet with that support from each individual necessary to enforce them in the community, they were submitted through the Channel of the Superintendent to the consideration of the inhabitants who, selecting from their own body a Committee of twelve, agreed to every measure that could lend to give them efficacy, and we would fain hope that the practice of these Regulations will in time evince their utility.

“22. Amongst these Regulations we must beg leave to point out to your particular observation the 9th and 10th by which we took upon us for the reasons that are there subjoined to abolish in future the right of slavery in this country. The great increase of late years of this savage commerce from the cause therein pointed out seemed to call upon us to adopt this regulation as a measure of good policy in our Government to prevent hasty strides towards depopulation and as the opinions of the most creditable Mussulmen and Hindoo inhabitants taken on this subject condemned the authorized usage of selling slaves as repugnant to the particular precepts of the *Koran* and Shaister, as oppressive to the people and injurious to the general welfare of the country, we made no hesitation on such strong and concurrent grounds to pass the Resolution and we directed it to be published and obeyed at all the Provincial Divisions.

“23. In consequence of these orders, we received a reference from the Council of Dacca advising us that it was an established custom throughout the Dacca districts to keep in [cclii] bondage all the offspring and descendants of persons who have once become slaves, and requesting therefore to be furnished with our orders whether the benefit of our 10th. Regulation was to be extended to the children of slaves subsequent to the period mentioned in that Regulation.

“24. Upon considering this reference we found it necessary to superadd to our former resolution the explanation which is contained in our Proceedings of the 12th July,

namely—That in those districts where slavery was in general usage or any way connected with or likely to have influence on the cultivation or revenue, particular advice was to be transmitted to us of such usage and every circumstance connected with it, when we should give such directions as we might judge to be necessary, but that considering their reference in the meantime in the light of a general proposition we were of opinion, that the right of masters to the children of their slaves could not legally be taken from them in the first generation, but that this right could not and ought not to extend further ; and we directed the several Provincial Divisions to make publication accordingly.

“25. We cannot doubt that the motives of policy and humanity which influence this regulation will meet with your approval, but we would wish also to be favoured with your sentiments and orders on the subject to regulate our conduct when we shall receive the reports called for from the several Provincial Councils of the state of slavery throughout their districts : some of these have been already received ; others are still expected”.



## CHAPTER XIII.

### THE SUPREME COURT OF JUDICATURE

[ccliii] Francis has spoken of "that period of delirium, during which it was asserted by some, and believed by many, that the revenue of the Dewanny lands was inexhaustible", and Mill records that in 1766 "the inflated conceptions of the nation at large multiplied the purchases of India stock, and it rose so high as 263 per cent"<sup>1</sup>. Dreams of the sudden fortunes to be made by traffic in Indian stock had the effect of subordinating the Court of Proprietors to the influences of stockbrokers and the Alley. The director, with the permanent interest of the Company before him, was painfully aware of the Company's actual condition of indebtedness; the proprietor, whose interests lay in the purchase and sale of his stock, was indifferent whether the dividend was paid out of money received into the Treasury or from money raised by loans in anticipation of the sale of the investments. In 1767 this antagonism of interests produced a most significant result. The Directors had ordered the prosecution of those servants who had accepted presents on the occasion of Najm-ud-daula's accession to the *musnud* in 1764. The more influential of the incriminated servants, who had been driven from Bengal by Clive in 1765, had reached England, and, finding the Proprietors engaged in a warfare with the Directors on the subject of the dividend, they succeeded in uniting their cause with that of the powerful Opposition. At a General meeting of the Court, on the 6th of May, the Proprietors voted a dividend of 12½ per cent. and the resentment of the majority at the Director's opposition to the increase carried a resolution that the suits commenced against the Company's servants should be dropped. It has been said, probably with truth, that it was this display of of partisan animosity, rather than any statesmanlike desire to provide India with a better form of government, which led to the subsequent intervention of Parliament in the Company's affairs.

In 1767 Parliament definitely asserted its right to control the Company's action in the distribution of its monies. An Act was passed which directed that, after the 24th. of June, 1767, dividends should be voted by ballot only at General Courts expressly assembled for that purpose; 10 per cent was set as the maximum dividend; and it was ordered that no dividend should be declared before the next session of Parliament. In April, 1769, an Act was passed which represented a compromise between the English Government and the Company. In consideration of a continued enjoyment of the Indian Revenues for the next five years, the Company was to pay in to the Exchequer £400,000 annually. If the revenues should prove adequate for the purpose, the Company might in each year increase the dividend by 1 per cent. until the dividend [ccliv] reached a maximum of 12½ per cent.; but on the other hand, should the dividend fall below 10

1. Mill : *Op. cit.*, Edn. 1840, vol. iii, p. 432.

per cent. the payment to the Exchequer was to be subject to a proportional rebate, and should the dividend fall to 6 per cent. the payment to the Exchequer was not to be made. The Acts of 1767 and 1769, while silent on the all important subject of sovereignty, established the principle of the right of the nation to control and participate in the acquisition of the Company.

(While the public mind was engaged in contemplating wonderful visions of oriental wealth, the position of the Company was becoming so embarrassed by debt that on August the 10th, 1772, the Chairman and his Deputy were compelled to interview the Minister, and to plead for a loan of one million from the public. It was natural for the Company to account for the failure of its expectations by the misdoing of their far distant servants, and to represent their punishment and reform as the most effective of remedial measures. It was natural for the Government to forward a scheme for the better administration of Indian affairs—measures calculated to bring the Company's business at Leadenhall more within the control of the ministers at Westminster. The policy, which brought into existence the Regulating Act of 1773, looked in these two directions—the removal of evils which had their operation in the Company's constitution, and evils which had their operation in India. It was thought that by diminishing the number of votes in the Court of Proprietors, and prolonging the period for which the Directors were elected to serve the management of the Company's affairs would be rescued from "tumult and disorder." Consequently the Act of 1773 raised the qualification for a vote in the Court of Proprietors from £500 to £1000 in shares, and replaced an annual election of all the Directors by an annual election of one-fourth of the number. To meet the evils which operated in India, a new executive Government and a Supreme Court of Judicature were created.)

The Regulating Act<sup>2</sup> (13 Geo. III. Cap. 63) provided that from August the 1st, 1774, the Company's administration in Bengal should be vested in a Governor-General with a salary of £25,000, and four Councillors with a salary of £8,000 each, and the Presidencies of Madras and Bombay were, in vague terms, subordinated to the Government at Fort William. The first Governor-General and the members of Council were nominated in the Act, and were appointed to serve for five years, after the expiration of which the Company would nominate the next occupants of the offices. The Governor-General, the Councillors and the judges were forbidden to engage in commercial pursuits, and the acceptance of presents was forbidden to servants of the Crown and the Company. (For a Supreme Court of Judicature, a Chief Justice with a salary of £8000, and three judges with salaries of £6,000 each, were provided.<sup>3</sup>)

2. Collection of Statutes relating to India, vol. i, p. 69. *et. seq.*

3. *Vide the IXth Report of the Select Committee, 1783*, p. 4 and Mill : *Op. cit.*, vol. iii, p. 350. The essential point to be remembered is that with many of the Proprietors (tenderers of contracts with Government, clerks in public offices, etc), the influence attaching to their position as voters was more important than the amount of the dividend.

[cciv] In regard to the new form of government provided for Bengal, it may be said with confidence that Mill's criticism of the Regulating Act fails entirely to touch the facts of the situation. The old system of Government, which the Act abolished, had this radically vicious element—it made the Company's Servants the final judges in their own causes. The Council had hitherto included the very persons whose mismanagement or oppressive conduct it was the business of the Council to inquire into or correct, and a body so constituted was hardly likely to exercise the necessary severity.) Mill entirely ignores this important point, and contents himself with repeating once more the theory that large salaries are securities against the temptation to accept undue increments. He, however, criticises the Regulating Act with real effect when he points out the failure to provide for the new Supreme Court of Judicature a clear indication of the rules by which that Court was to give judgements; but, when he argues that to bring the Executive Government under the cognizance of the Court would be to turn the Court into the government, he ignores the existence of constitutional principles which in England make it possible for the Crown to be made a party to causes in its own courts.

The feature of the new Indian constitution, which in reality was the most exposed to attack, was the arrangement by which a majority of the Council were given power to defeat the Governor-General's policy. Experience soon pointed to the mistake that had been made, and in 1786 the right to overrule the Council was easily conceded to Lord Cornwallis.<sup>4</sup> To Hastings' courageous use of his casting-vote must be attributed the escape of India from the disasters to which the country was exposed by the conflicts at the Council Board during the years 1774-81. The expedients to which the Governor-General was driven to protect measures, the success of which depended on secrecy and expedition from premature exposure, futile debate, and fatal delays, produced many of those effects which so well served the purposes of the managers of Hastings' subsequent impeachment. Sir John Strachey does not employ expressions too strong when he characterises the plan of governing an empire by a constantly shifting majority at the Council Board as "impossible" and "folly".

Sir J. F. Stephen has compared the framers of the Regulating Act with hypothetical statesmen in 1885 endeavouring to "provide for the efficient Government of Egypt without openly invading the authority of the Sultan or the Khedive, or expressly asserting the sovereignty of the Queen."<sup>5</sup> The comparison is hardly to the point, for Lord North's ministry was not professedly providing Bengal with a new form of Government. The persons over whom the Supreme Council and Court were to exercise jurisdiction were not any inhabitants of India residing in Bengal, Behar, and Orissa, but the "subjects of Great Britain, of us, our heirs, and successors." In legal [ccvi] documents of so high an importance, a lawyer at least would desiderate some carefully drawn clauses safe-guarding the jurisdictions of the native Adalats, which it was no intention of the framers of the Act to invade. Not

4. In 1793 the principle was extended to the Governors of Madras and Bombay.

5. *The Story of Nuncomar and the Impeachment of Sir Elijah Impey*, vol. i., pp. 12-13.

intending to trespass on jurisdictions which were derived from the constitution of the country, or to bring under English rule persons who, in the current view, were regarded as subjects of the Mughal Emperor, the Act and Charter of the Supreme Court were silent as to persons and judicatures other than those originated by the Act. If we begin by viewing the Regulating Act as a measure designed for the better government of Bengal as a whole, we shall be perplexed to find that the Act :—

(1) Beyond authorising the Governor-General to frame, with the consent of the Supreme Court, byelaws for the town of Calcutta, gives no legislative power to the Governor-General and Council ; and

(2) that the Act neither settles the local or personal jurisdiction of the Supreme Court outside Calcutta and the subordinate settlements, nor determines what law is to be administered.

Under the Regulating Act the Governor-General and Council simply step into the place of the former President in Council and the Select Committee ; (the Supreme Court, with more elaborate machinery, takes the place of the old Mayor's Court.) *De facto* the Company's administration has been so expanded that it is now in practice difficult to discriminate between an inhabitant of the country who is and one who is not "under the protection of the said Company : " *de lege* those who are not amenable to the new jurisdictions are negatively determined by the definitions of those who are amenable. (According to the Charter the civil jurisdiction of the Supreme Court extended over "all European and British subjects resident in Bengal, Behar, and Orissa, and every other persons who, either at the time of bringing the action, or at the time the action accrued, was "employed" or "was directly or indirectly in the service of the Company, or any other of our subjects." In regard to criminal jurisdiction, the Court had the authority of Commissioners of Oyer and Terminer and "goal delivery in and for the town of Calcutta" and the Factory of Fort William in Bengal, and the factories subordinate thereto." Trial was to be by jury, and both the grand and petty jurors were to be "subjects of Great Britain resident in the town of Calcutta". Had the new jurisdictions been intended for the entirety of Bengal and its inhabitants there would not, of course, have been this reference to Fort William and "the factories subordinate thereto," and to European and British subjects.)

Writing two years after the opening of the Supreme Court, Philip Francis points out that the great question of actual sovereignty is still undetermined. "We have," he says, "a Supreme Court of Judicature resident at Calcutta, whose writs run through every part of these provinces in his Majesty's name, indiscriminateley addressed to British [ccclvii] subjects, who are bound by their allegiance, or to the natives, over whom no right of sovereignty on the part of the King of Great Britain has yet been claimed or declared. <sup>6</sup> While these contradictions are permitted to subsist, the actual government

6. S. 4 of the Charter makes the judges "justices and conservators of the peace and coroners within and throughout the said provinces, ~~parts~~ and countries of Bengal, Behar, and Orissa, and every part thereof, and to have such jurisdiction and authority as our justices of our Court of King's Bench may

power and authority to hear and determine all complaints against any of His Majesty's subjects for any crimes, misdemeanours, or oppressions committed or to be committed ; and also to entertain, hear and determine any suits or actions whatsoever against any of His Majesty's subjects in Bengal, Behar and Orissa, and any suit, action, or complaint against any person who shall at the time when such debt or cause of action or complaint shall have arisen have been employed by or shall have been directly or indirectly in the service of the said United Company, or any of His Majesty's subjects". The Act fails to make clear beyond dispute whether the "management, etc" vested in the Council was, or was not, to be exempt from the jurisdiction of the Court. It was a matter of notoriety that the collection of the revenues afforded the richest opportunities for oppressions by persons "in the service of the said United Company." On this matter the Council and Court at once came into collision, the former holding that the Act exempted its officers from the jurisdiction of the Court in respect of acts done by them in the collection of the revenue, while the latter maintained that the duty of hearing cases in which the revenue officers were complained against on the score of illegal acts was precisely one of the most important purposes for which the Supreme Court had been created. Here, as will be seen, was afforded an opportunity for a violent quarrel between the Executive and the Judicial powers.)

Of the four Judges Chambers, an emeritus Vinerian professor, was probably the only one deeply learned in the science of law, but he appears to have been of a timid disposition, and far too subject to personal influences ; Hyde, a hard and conscientious worker, but, if Impey is to be believed, a victim to some "disorder", was apt to be a partisan, and Lemaistre, a protege of the licentious Lord Sandwich, was not blessed with a gift of discretion. Hyde and Lemaistre stood for the extreme opinion, and were with difficulty restrained by the Chief Justice from taking up the position that the Regulating Act had deprived the revenue authorities of all judicial power in their own department. Our histories have taught us what we might expect to be the character of the attitude Clavering, Monson, and Francis would assume to any opponents they might encounter ; the most reasonable and sober of causes were bound in their hands to become unreasonable and fanatic. At one time in course of the controversy with the Supreme Court, Hastings and Francis were at one, and it is difficult to decide how far Hastings' usually cool judgment was not carried above the temperate zone by the heated atmosphere of his Council when he found himself supported by those who in all other concerns were banded to oppose him.

[cclx] The establishment of the Supreme Court, of course, involved the absorption into it of the Mayor's Court, and the judges at once decided that no Court with a criminal jurisdiction could exist in Calcutta save their own. This decision placed in abeyance the Faujdari Court which, as it was decided, or taken as granted, that inhabitants of Calcutta were all British subjects, was left without any functions to perform.<sup>10</sup> The

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10. In 1772, after the abolition of the Comptrolling Council of Murshidabad, the Nizamat Adalat,

quarrel of the Government with the Supreme Court had also the serious effect of suspending the operations of the Sudder Diwani Adalat, which practically remained in abeyance till 1780. The superintendence of the District Diwani Adalats, as has been seen, had been vested in the Provincial Councils of Revenue.

The conflict between the Executive Government and the Supreme Court naturally occupies a considerable space in Mill's *History of British India*, and it is suggested by Sir J. F. Stephen that the subject has been "greatly misunderstood and misrepresented" by Mill, "where excessive dryness and severity of style produce an impression of accuracy and labour, which a study of the original authorities does not by any means confirm." (The subject is one of primary importance in any attempt to relate the history of the English administration of Bengal. In noticing the defects in the drafting of the Regulating Act, Mill writes: "On the principal ground, Parliament as usual trode nearly blindfold. They saw not that they were establishing two independent and rival powers in India, that of the Supreme Council and that of the Supreme Court <sup>10</sup>; they drew no line to mark the boundary between them <sup>11</sup>, and they foresaw not the consequences which followed, a series of encroachments and disputes which unnerved the powers of Government, and threatened their destruction". Sir J. F. Stephen's position, on the other hand, is that, despite some occasional indefensible utterances of individuals ("the silly violence of Lemaistre's character," etc.) the Court was justified by the intentions of the framers of the Regulating Act, and had an unquestionable right to take cognisance of "severities" in the collection of the revenues.

The picture painted by Mill of the confusion to which the country was placed by the intervention of the Supreme Court is a sombre one, and his critic is justified in describing the colouring as exaggerated. The passage is a long one, yet it would be hard to find better words than Mill's own to convey the impression :—

"The judges had not been long in the exercise of their functions when the effects of their pretensions began to appear. The writs of the Supreme Court were issued at the suit of individuals against the zemindars of the country in ordinary cases of debt; the zamindars were ordered to Calcutta, to make appearance, taken into custody for contempt if they [cclxi] neglected the writ, or hurried from any distance to Calcutta, and, if unable to find bail, were buried in a loathsome dungeon. In a minute of General Clavering, Colonel Monson, and Mr. Francis, dated the 11th of April, 1775, they declare that process of this description had been issued into every part of the provinces. 'Zemindars', they add, 'farmers, and other proprietors of the lands, have been seized upon the estates, and forcibly brought up to the Presidency, at the suit or complaint of other natives, and detained there, or obliged to give bail, according to the nature of the case. By

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or superior Native Criminal Court had been brought down to Calcutta, and placed under the charge of a *darogha*, subject to the control of the President of the Council. In October, 1775, the Nizamat Adalat was sent back to Murshidabad, and Muhammad Riza Khan, as Naib Nazim, was entrusted with the control of the Native Criminal Courts.

these proceedings, the minds of the natives were thrown into the utmost consternation and alarm. They saw themselves surrounded with danger of a terrible nature, from a new and mysterious source, the operations of which they were unable to comprehend . . . . . The evils, not of apprehension merely, but of actual suffering to which it exposed them, were deplorable. They were dragged from their families and affairs, with the frequent certainty of leaving them to disorder and ruin, any distance, even as great as 500 miles, either to give bail at Calcutta, a thing which, if they were strangers, and the sum more than trifling, it was next to impossible that they should have it in their power ; or to be consigned to prison for all the many months which the delays of English judicature might interpose, between this calamitous stage and the final determination of the suit. Upon the affidavit, into the truth of which no inquiry whatsoever was made, upon the unquestioned affidavit of any persons whatsoever, a person of credibility, or directly the reverse ; it made no difference whether the individual prosecuted, was within the jurisdiction of the court, the natives were seized, carried to Calcutta, and consigned to prison, where, even if it was afterwards determined that they were not within the jurisdiction of the court, and of course that they had been unjustly prosecuted, they were liable to lie for several months, and whence they were dismissed totally without compensation. Instances occurred, in which defendants were brought from a distance to the Presidency, and when they declared their intention of pleading, that is, objecting to the jurisdiction of the court, the prosecution was dropped ; in which the prosecution was again renewed, the defendant again brought down to Calcutta ; and again, upon his offering to plead, the prosecution was dropped. The very fact of being seized was, in India, a circumstance of the deepest disgrace, and so degraded a man of any rank, that, under the Muhammedan government, it was never attempted, except in cases of the greatest delinquency.' Not only the alarm which these proceedings diffused throughout the country, but the effects which they threatened to strike the collection of the revenue strongly excited the attention of the Company's servants and [cclxii] the members of their government. To draw from the ryots the duties or contributions which they owe, is well known to be a business of great detail and difficulty, requiring the strictest vigilance, and most minute and persevering application. Anything which strikes at the credit of the zemindar, farmer, and other functionary, by whom this duty is performed, immediately increases the difficulty, by encouraging the ryot in the hope of defeating the demand by evasion, cunning, obstinacy, or delay. The total absence of the functionary, called away to attend the proceedings of the Supreme Court, his forcible removal, or the ignominious seizure of his person, went far to suspend the collections within his district, and to cut off the sources of those payments for which he was engaged to the Company.

‘It has been the immemorial practice in India, for that great branch of the government intrusted with the collection of the revenue, to exercise the department of jurisdiction which regarded the revenue, to decide in that field all matters of dispute, and to apply the coercive process which was usual for enforcing demands. These powers were now exercised by the Provincial Councils, and the Courts established by the name of

Diwanee Adaulat, under their authority. The mode of decision was summary, that is expeditious, and inexpensive ; and the mode of coercion was simple, and adapted to the habits and feelings of the people. One or more peons, a species of undisciplined soldiery, employed in the collections, was set over the defaulter, that is, repaired to the house, and there watched and restrained him, till the sum in demand was discharged. In a short time the Supreme Court began to interfere with these proceedings. The defaulters were made to understand by the attorneys, who had spread themselves pretty generally through the country, that if they would throw themselves upon the Supreme Court, they would obtain redress and protection. They were taught, as often as any coercive process was employed by the judges of revenue, to sue out a writ of habeas corpus in the Supreme Court ; where it was held competent, and was in practice customary, for the judges to set them at liberty upon bail. This excited still more violently the apprehensions of the members of government, in regard to the collection of the revenue. As the disposition to withhold the payment is universal and unremitting in India, and never fails to lay hold of every occasion which afford any chance either of delay, or evasion ; they apprehended that such a course, held up to the people, would breed a general tendency ; and they concluded with justice, that if, in the innumerable cases in which compulsion was necessary, it could be exercised through the tedious, laborious, and expensive forms of English law, the realizing of revenue in India was a thing altogether impossible".

[cclxiii] In this passage Mill states the case of the Council against Supreme Court. Sir J. F. Stephen, whose pre-occupation it is to defend the judges, admits that the procedure in the districts in cases before the Supreme Court constituted "a serious grievance", for which the authors of the Charter in the first instance were to blame, and the Judges, in the second, as they had not exercised their right of drawing up rules calculated to prevent the abuses complained of.<sup>11</sup> The matter of the manner of arrests in civil cases he regards as a "topic of prejudice" to the real subject of debate—the right of the Supreme Court "to interfere with the Company's servants in their judicial capacity, and more especially in their capacity of Collectors of the Revenue". Before discussing that question, it will be convenient to notice some of the leading instances in which the Judges put that alleged right, into practice.

11. Sir James writes : "The procedure in the mofussil in cases before the the Supreme Court was the ordinary English procedure in civil actions at common law slightly modified, that is to say, a writ was issued and served, and if the defendant did not thereupon put in bail to answer the action he was liable to be arrested, as the phrase was, 'on mesne process', and imprisoned till his case was heard, which might be for many months. The only modification introduced into this by the rules of the Supreme Court was that an affidavit as to the fact which was said to make the defendant liable to the jurisdiction of the Court was required of the plaintiff, and the writ was not issued until by this means a *prima facie* case had been made out for its issue to the satisfaction of one of the judges of the Court. This law of arrest on mesne process was beyond all question one of the worst and most oppressive points of the law of England as it stood, down almost to our own times. Its introduction into India was indefensible." *Op. cit.*, vol. ii. pp. 144-45.



1. *The case of Commaul O Deen, Kamal-ud-din.* This person seems to have been the ostensible holder of a salt farm at Hijili,<sup>12</sup> on behalf of the real farmer, Kantu Babu (Hastings' famous banian) and is best known for the important part he played in the trial of Nanda Kumar, at which he appeared to maintain that his signature on the jewel deed was a forgery. The Revenue Council of Calcutta had issued a writ for Commaul's committal on the ground of an arrear of revenue due from him as farmer, and this claim Commaul disputed. The Supreme Court held the return to be defective in form as it omitted to "express a power in the Council of Revenue to commit without bail or main-prize, although words to the same effect were inserted". It was admitted by the President of the Calcutta Revenue Council (Mr. Cottrell) that it was customary to take bail in such cases, and the Judges, therefore, held that the "best and most undoubted authority" required, in a case of a disputed account, that the defendant should be held to bail, till the inquiry as to his obligation to pay was completed. They, therefore, ordered Commaul, who had been brought up on a writ of habeas corpus, to be admitted to bail, and not again imprisoned until his under-renter had been called upon to pay the arrears and had proved to be insolvent. The Supreme Council at once expressed their resentment at this action of the Judges, who they alleged were "not empowered to take cognizance of any matter or cause dependent on or belonging to the revenue," the Regulating Act having, in their view, confirmed the Company as Diwan of Bengal. When, however, the [cclxiv] Council determined to order the Provincil Council to re-imprison Commaul, and to pay "no attention to any order of the Supreme Court or any of the judges in matters which solely concern revenue", the Governor-General declined to support the measure proposed. Shortly after this Commaul took a part in the famous Nanda Kumar business, and he was made to feel the resentment of the majority of the Council. In a letter to the Court of Directors, dated September 19th, 1775, Impey explains that a distinction should be drawn between claiming a jurisdiction over the original cause, which the judges had not done, and an intervention on the part of the Supreme Court to prevent the Company's officers, "under the colour of legal proceeding", being "guilty of most aggravated injustice." "This distinction, if attended to", he adds, "is sufficient to clear away everything that can give the least alarm on the account of the interests of the Company; for the Court, allowing the custom and usage of the collections to be the law of the country, have only compelled the officers of the Government to act conformable to these usages, and not to make use of the colour and forms of law to the oppression of the people".<sup>13</sup>

2. *The Burdwan Provincial Council of Revenue and the Rani of Burdwan.* "In this case", writes Sir J. F. Stephen, "the Judge of the Supreme Court appears in a mischievous and rather ludicrous light. His letter was arrogant, foolish, and in all ways unjustifiable, but he was acting so far as the issue of the summons went within his legal

12. Beveridge : *The Trial of Nanda Kumar*, p. 235.

13. Stephen : *Op. cit.*, vol. ii, p. 134 *et seq.* India Office, Record Department, Parliamentary Branch Collection. IXth Report House of Commons, 1781. General Appendix. III, No. 14.

rights. Higginson was unquestionably liable to the process, both Criminal and Civil, of the Supreme Court, and, if he did illegally imprison the Ranee, was intended by those who drew the Act to be subject to such process." Higginson was the President of the Burdwan Provincial Council of Revenue. The following is the letter of Mr. Justice Lemaistre :—

"Sir,

"A complaint has been made to me against you on behalf of the Ranee of Burdwan, which appears to me to be of a very serious nature.

"I apprehend that the late Act of Parliament had particularly in view to protect the natives of this country from all oppressions committed through European influence. The Ranee, who appears to be the widow of one of the most ancient rajahs, and one of the first families in Bengal, is, it seems with the Rajah her infant son, kept in a state of inquietude and duress by a military force under your orders and directions; and a man of the lowest state of people is, against her consent intruded upon her, introduced as a principal servant into her family, takes upon himself the receipts and disbursements of her cash, threatens and even dismisses her servants at his pleasure, puts them under the custody of peons, and in [cclxv] every respect acts contrary to the wishes and inclinations of the Ranee, who is thereby rendered no longer mistress of her own house, but obliged to take refuge in her most inward apartments, and prevented (from the fears and apprehensions she is under) from performing her accustomed religious ceremonies. Even her private apartments (by all Europeans hitherto deemed sacred) are, it seems, not considered by you as an asylum; <sup>14</sup> and you, it is sworn, have broke through that respect and decorum, which, according to the customs and usages of this country, is due to every person of her sex, and peculiarly to a person of exalted rank.

"I am told (and, indeed, I have seen it in writing) that this is attempted to be justified by orders from Government. With me it greatly aggravates this offence, since Government is as much under an obligation to be just as the lowest individual; and more is to be allowed in the defence of an individual who, actuated by the sudden impulse of his passions, commits an injury, than to him who is the ready instrument to execute the orders of despotic power, a power which, give me leave to say, the Creator could never mean to delegate to human beings.

"It is sworn to me that the Ranee is not indebted to the public revenues, except, perhaps, for the current month, and she is accused for no crime, and that neither your Sepoys nor your tormentor <sup>15</sup> Bahadur Sing, do claim to act under the process of any Court of Judicature.

14. Sir J. F. Stephen adds this note: "The violation of the zenana is mentioned as a grievance in several cases. Macaulay is virtuously eloquent about it. The impression made on my mind is that it was a kind of pleader's flourish, like the 'assault and beat,' 'broke and entered,' and *alia enormia* of old fashioned English special pleading. The charges are made as well in the cases where the High Court's interference was claimed as in those in which it constituted the grievance complained of."

15. Is Lemaistre giving a literal translation of the word "Sezawal"—an ordinary name for a native bailiff?

"If any respect and regard, therefore, is to be paid to the ancient families of this country, if the British legislature did mean, by the late Act of Parliament, to protect the natives ; I shall be glad to see by what argument this Government will attempt to justify, against a person of such high rank as the Ranee of Burdwan, a violation of civil rights which would be deemed detestable, if practised upon the meanest peasant in the mother country.

"Every disturbance of the peaceable enjoyment of a person's house is an enormous oppression, and while I stay in this country, I will, to the utmost of my power, give the same redress, and the same measure of justice to the lowest of the people, which I hope to see given to the Ranee on this occasion, [cclxvi] be the oppressor ever so great and powerful. A regard for the interests of the East India Company, which might be affected by an arrest of all the members of one of their Provincial Councils, prevents me from sending such a warrant as the flagrancy of the case seems to require. Personal respect and regard likewise to yourself induces me to send only a summons, which I hope you will attend to without delay. But the insolent fellow, introduced into the Ranee's family against her consent, I have now sent a constable to apprehend.

"I have summoned likewise the person who commands the sepoys ; and I hope to hear, upon your arrival at Calcutta, that the sepoys are withdrawn, and the Ranee left at liberty to do what, and go where she pleases".<sup>16</sup>

3. *Seroop Chund's habeas corpus.* As Malzamin, or surety for the payment of revenue, Seroop Chund had become liable for a payment of a balance of revenue amounting to the sum of Rs. 10,000, and, in default of payment, peons were stationed over his house. Seroop Chund<sup>17</sup> was also Khazanchi or cash keeper of the Dacca Council, and, while the matter of his arrears of revenue was under discussion, inquiry was also made as to a sum of Rs. 66,745 in which he was in default to the Treasury. It transpired that Seroop Chund's inability to meet the demands made upon him arose from the loans he had made to various servants of the Company, but Seroop Chund denied that the loans he had made had been from the Company's money. The Chief of the Council, John Shakspeare, for his part, denied that he owed Seroop Chund the Rs. 10,000 which the latter professed to have lent him, and joined the other members of the Council in ordering Seroop Chund into confinement. The Company's attorney, to whom the matter was referred, placed before Mr. Justice Hyde the proceedings relating to the revenue arrears, but not those relating to the sum due to the Treasury from Seroop Chund as Khazanchi. In giving judgement on the case, Lemaistre followed the decision given by the Chief Justice in the case of Commaul, and laid down that in the matter of Seroop Chund's contract as Khazanchi with the Dacca Council, that body had no right to be judges in their own cause, and to attempt to secure their claim by arbitrary imprisonment

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16. Stephen : *Op. cit.*, vol. ii, p. 150 *et seq.*

17. See Firminger : *Sylhet District Records. Passm.*

In the course of his judgement Lemaistre is reported to have said : "Who are the Provincial Chief and Council of Dacca ? . . . . . They are no *Corporation* in the eye of the law . . . . . The Chief and Provincial Council of Dacca is an ideal body . . . . . A man might as well say that he was commanded by the King of the Fairies, as by the Provincial Council of Dacca ; because the law know no such body",<sup>18</sup>

[cclxvii] 4. *The Case of Dutt v Hosea*. Mr. Hosea<sup>19</sup> was the chief of the Murshidabad Provincial Council of Revenue and Head of the Diwani Adalat of that city. The details of the case are not of present importance. Believing that the Murshidabad Diwani Adalat had acted with great irregularity, the Advocate-General, Sir John Day, had urged the Governor-General and Council to compromise the case, and so prevent it going to Court for decision. This the Council refused to hear of, as "this was the first instance in which the members of any Diwani Court had been sued as individuals in the Supreme Court for acts done in their judicial character" ; and therefore "the suit ought to take its course for the purpose of ascertaining by a legal decision whether the Diwani Courts are, or are not, competent in their judicial powers upon the principals of their own constitution." Judgement was given by the Chief Justice in favour of the defendant, on the principle "that in cases of suit instituted before the Provincial Councils, except in manifest cases of corruption, the Court will not enter into the irregularity of their proceedings".

There are two far better known causes—the Patna and Cossijurah cases—which will require notice, but before proceeding to take them into consideration, it will be convenient to observe what Sir J. F. Stephen has to say of the decisions already noticed. He writes :

"I pause here for a moment to give in a few words the effect of the decisions actually given by the judges of the Supreme Court up to 1779, so far as appears from the Report<sup>20</sup> of Touchet's Committee, upon the position and authority of the Company's servants who occupied judicial positions, especially in connection with the collection of the revenue, the most important of whom were members of the Provincial Councils. It was this : The Courts established by the Company were recognised as Courts of Justice, the judges of which were not liable to actions for their judicial proceedings, even if they were irregular, unless they were corrupt. It had also been held that they had a right to hold revenue debtors to bail for revenue debts, and to confine them by putting peons on them or in prison until bail was given to appear before the Diwani Court, but that they had no right to imprison them without bail, in order to secure the payment of what ultimately might be found due. In other words, the Supreme Court did not allow the Revenue Courts to imprison a man without bail on mesne process. As far as I can discover this

18. Stephen : *Op. cit.*, vol. ii, p. 15 *et seq.*

19. Hosea - a nephew of Orme, the Historian, perished with his family in the wreck of the *Grosvenor*. See Fay : *Original Letters* (Messrs. Thacker Spink's Reprint).

20. This is Collection No. 9 of the India Office, Record Department, Parliamentary Branch.

was all that had been done in the course of the first four years of the Company's existence, though much jealousy, much apprehension, and much bad feeling had been aroused."<sup>21</sup>

[cclxviii] Stated in this way the claims of the Supreme Court, admitting an intention on the part of the authors of the Regulating Act that the Court should check abuses in the action of the Government, do not seem unreasonable or exaggerated. It may be observed, however, that whatever may be said of the actual decisions, the Judges, or at least some of them, had made use of language amounting to a challenge of the legality of the organisation of the Government. In the expressed opinion of Lemaistre "a man might as well say that he was commanded by the King of the Fairies" as plead the orders of a Provincial Council of Revenue. The Chief Justice himself was reported to have treated the Nawab "as a mere empty name, without any legal right, or exercise of any power whatever": Hyde was credited with the remark "the Act of Parliament does not consider Muburuck-al-Dowla as a sovereign prince," and Lemaistre had said: "with regard to this phantom, this man of straw, Muburuck-al-Dowla, it is an insult to the Court, to have made the question of his sovereignty." Sir J. F. Stephen points out that Lemaistre's denial of a legal corporate character to the Provincial Council of Dacca was true, since in India "no one except the Governor-General and Council and the Supreme Court had any defined legal rights or position, and that it was impossible to say that the Government had any legislative power or any sort of effective substitute for it."<sup>22</sup> If this were to be admitted, it would follow that the Revenue Courts held by the Provincial Councils were not lawfully founded Judicatures, and this Sir James admits: "It would", he says, "have been easy for the Supreme Court, had they really been factiously disposed, to have justified and acted upon the doctrine that no other Court of Justice except themselves existed in Bengal, Behar, and Orissa, and that the law of England was introduced into the whole country and not simply to a certain extent into Calcutta." Such a conclusion, as Sir James recognises, would have been in practice a monstrous and intolerable absurdity, yet surely, if it would have been so monstrously and intolerably absurd for the judges to dispute the validity of the Diwani Adalats, it was no less monstrously and intolerably absurd to advance the position that the Revenue Councils were merely ideal bodies, and that a Chief of a Revenue Council was as, in the eye of the law, real a person as the King of the Fairies.

It will suggest itself to the reader that when the Regulating Act declares that "the whole civil and military government of the said Presidency, and also the ordering, management, and Government of all the territorial acquisitions and revenues of the Kingdom of Bengal, Behar and Orissa shall be and hereby are—vested in the said Governor-General and Council . . . . . in like manner to all intents and purposes whatever as the same now are or at any time hereafter might have been exercised by the President and

21. Stephen: *Op. cit.*, vol. ii, pp. 161-62.

22. Stephen: *Op. cit.*, vol. ii, p. 155.

Council or Select Committee in the said Kingdoms," the Act gives legal confirmation to what was known as the Diwani, *i.e.* the civil administration as held by the Company [cclxix] in past years. To say that the Act vested this management, etc., in precisely five persons, the Governor-General and the four members of the Council, and to plead *Delegatus non potest delegare* would be, to forget that the *manner* of managing the revenue of so vast a country as the united subahdaris of Bengal, Bchar, and Orissa, would necessarily be by delegation. The position maintained by the Governor-General and Council was broadly that the Act had indeed confirmed the Diwani in their hands, and with this position the right of the Supreme Court to check pervasions of the Diwani constitution was not in principle inconsistent. The language of the Judges, however, went far beyond the modest claims represented by their decisions and tended to weaken the power of the Executive Government.

During the early stages of the controversy concerning the Court's right to deal with alleged oppressions in the revenue collections, several incidents occurred of a kind well calculated to excite the apprehensions of the Executive Government. On one occasion, in 1776, when the Court were in need of evidence in a cause, they issued a *subpœna* on the Secretary of the Council, ordering him to produce in Court the records of the Supreme Council. The Council, although ready to submit extracts which would exhibit all that belonged to the particular cause refused to expose to the Court a whole collection of papers containing secret transactions of Government with which the Court could not be concerned. The Chief Justice, thereupon, compelled the Secretary to reveal the names of the members of Council and the purport of their votes as to the production of the records: the Councillors who had voted that the records as a whole should not be produced were declared to be amenable to a suit.

In a minute dated 21st November, 1775, the majority of the Council complain:

"If by our authority as Dewan confirmed to us by Parliament, a farmer be confined for arrears of rent, the Supreme Court of Judicature take the cause out of our hands, decide on the merits, and discharge the prisoner; if we dismiss the Judge Advocate, he applies to the Supreme Court for a mandamus to reinstate him in his office; if we dismiss the Secretary of our own Board, we see him encouraged to bring an action for the salary against his successor; if we order a British subject to repair to the Presidency, he pleads the protection of the Supreme Court of Judicature, and declines or refuses to obey us; if, for reasons of the most serious political importance, we endeavour to support the authority of the country government, and the sovereignty of the Subah, we have not only the foreign factories, but the Supreme Court of Judicature immediately to contend with; they publicly deny the existence of such a government, and affectedly hold out the person and authority of the prince to the contempt of the world.

[cclxx] "According to the doctrines maintained by the judges, there is scarce any act of government, however necessary or expedient, which if it tends to control the actions, or to thwart the interests, of individuals, may not expose the members of the Council to actions in the Supreme Court; we even doubt whether we are authorised to prevent

any person from quitting the provinces, and going up the country, though we should be certain of their intention to enter into the service of a foreign power. In these circumstances, many useful and obvious regulations for the benefit of the country must necessarily be left unattended. A general recoinage had been repeatedly recommended to us by the Court of Directors ; such a measure is, without doubt, indispensably necessary ; but it is of a nature too delicate and important, and likely to be attended with too many difficulties in the execution, to be undertaken with safety by a divided government, with a hostile Court of Judicature. We could point out a number of other objects which would deserve our attention, and of abuses, which calls upon us for redress ; but this is not a season for a mere majority of the Council to undertake any measure for the public service, in which the learned in the laws of England can discover anything to cavil at. While a standard is publicly hoisted against our authority, and every individual in the country invited to repair to it ; while protection is given to every man who denies or resists the authority of government ; and while the Governor-General takes a willing and a decided part in every measure that tends to degrade the Council and disarm us of our lawful powers, we are not sanguine enough to expect that any efforts of ours should be equal to the execution of the trust reposed in us. We cannot answer for the collection of the revenues, we cannot answer for the internal government of the country nor for the safety of the State ; our utmost efforts shall still be exerted to preserve the peace, and to promote the welfare of the country, until the necessity or expediency of a new arrangement shall be determined at home ; but divested as we are of all power, we owe it to our safety and character to discharge ourselves in the most solemn manner of all responsibility.”<sup>23</sup>

At the time this minute was written, the judges had so far done nothing which could justify a solemn disclaimer of responsibility for the well government of the country on the part of three members of Council. Of a far more serious nature is the representation made by the Court of Directors to the Ministers of the Crown in November, 1777—a document of which Mill has given a lengthy and accurate account.

[ccclxxi] In June 1777, however, the Council found itself compelled to accept the decision of the Judges on the momentous question who was the Governor-General—Hastings or Clavering ? On the 19th of June intelligence reached Bengal that the Directors had accepted the resignation of the Governor-General’s office, which Maclean, as Hastings’ agent, had tendered, and that a new Council had been appointed to fill the vacancy. On the 20th of June, Hastings, who repudiated his agent’s act, assisted by Barwell, sat as Governor-General in one department, while Clavering assumed the dignities of that office in another. The curious events of that brief struggle have often been told, and the reader will remember that Hastings’ proposal to submit the issue to the decision of the Judges, was reluctantly but finally accepted by Clavering and Francis.

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23. Forrest : *Selections, etc.*, vol. ii, pp. 462-63. For Hastings’ comment, see *Ibid*, vol. ii, p. 494.

After a prolonged night-session at the Chief Justice's house, the Judges declared that the resignation tendered by Macleane in England was invalid, and that therefore Hastings was indubitably Governor-General.<sup>24</sup> Subsequently the Judges disallowed the argument which Hastings and Barwell had advanced that Clavering by occupying the Governor's chair had implicitly vacated his seat in the Council. After all that had passed, the reference of these two great questions to the judges was in itself a victory for the Supreme Court, but the end of the struggle had not yet been reached.

In the two causes remaining for consideration, the conflict between the Supreme Council and the Court comes to a culminating point.

1. *The Patna Cause.* Fortunately it is not necessary to detail the complications which led to this suit being brought before the Supreme Court; it is with the bearing of the Judges' decision on the Government of the country, and not with the question of wrongs sustained by the parties in the case that we are concerned. Toward the end of the year 1776, Shabaz Beg, a military adventurer from Cabul, died at Patna, leaving behind him a considerable fortune. A few weeks after Shabaz Beg's death, a nephew, by name of Bahadur Beg notified to the Provincial Council that the widow of the deceased had embezzled some of the goods and prayed that the Kazi and Muftis, the Mahomedan law officers of the Council, might be instructed to ascertain the petitioner's right, "and give information to the presence (*i.e.* the Council) that your petitioner may obtain his right." It is very likely that Bahadur Beg's first object was, as Ewan Law, the Chief of Patna, supposed, to obtain "the charge of the widow and the possession of the estate, and this is ever the case where the widow has a claim to any considerable inheritance." The Council issued a *parwana* to the Kazi and Muftis to take an inventory of the property, to secure it till orders were passed as to its division, and to report to them the ascertained facts and legal justice.

Deriving the accounts of the events which ensued the issue of this order, from one and the same source, Mill gives an account which [cclxxii] would lead the reader to suppose that the widow, Nederah Begum by name, acted throughout with an almost insane violence, while Sir James Stephen's account leads up to the view afterwards taken by the Chief Justice that in this instance the widow was regarded by "the black officers" as a "proper object of rapine and violence". Nederah Begum fled from the house, carrying away with her some of the title-deeds and the female slaves of the deceased, but whether her flight was designed to bring the law officers into odium, or whether the violence of the law officers compelled her to fly, cannot be ascertained. Some time before January 20th, 1777, the Kazi and Muftis delivered in their report, and from this document it appears that the nephew, Bahadur Beg, laid claim to his uncles' property as the adopted

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24. See *Bengal: Past and Present*, vol. i. and vol. xii: "The Governor-General of a Day."



son of the deceased, while the widow claimed by virtue of a will and deed of gift. The Kazi and Muftis were of opinion that the will and deed of gift were both forgeries, and they recommended that the property, excluding an altamgha, which would not form part of the inheritance, should be divided into four parts, three of which should be given to Bahadur Beg, and the fourth to the widow. The Provincial Council accepted the report, and had ordered a division to be made accordingly. The widow declined to accept this fourth share, and as she declined to return to the house and to yield up the property she had carried off with her, the Council placed a guard over her place of refuge—a shrine of a Mahomedan saint inhabited by Hindu fakirs. Ultimately she brought an action before the Supreme Court against Bahadur Beg, and the Kazi and Muftis, for assault, battery, and imprisonment during a period of six months.

In giving judgment, the Chief Justice declared that the assertions of the Kazi and the Muftis, that the will and deed of gift were forgeries, were unproved. The circumstance, Sir Sir Elijah said, “makes us shrewdly suspect that this identical report never had existence till it was fabricated for the purpose of this cause.” The original Persian report was not produced, but only an unsigned translation, which indeed had the appearance of being, not a *bona fide* translation, but an account drawn up by an Englishman from a statement made by a native.) It is not however necessary to labour through the details of the judgement. The point which concerns the present inquiry is that (in the Patna Cause the Supreme Court held the law officers of a Provincial Council of Revenue as amenable to a charge of assault and false imprisonment, in regard to actions taken by them as public officials. It was claimed on behalf of the Kazi and the Muftis that the Provincial Councils of Revenue were acknowledged Courts of Judicature, and that it was the established custom of the Provincial Councils to refer cases in which Mahomedans were parties, and to which the Mahomedan law of inheritance would apply, to the Kazi and Muftis, who would hear the evidence on both sides, and report to the Council. In this matter the parties were Mahomedans, and all the acts done by the Kazi and Muftis had been done in the discharge of their duty as the regular law officers of the Council. Bahadur Beg’s justification, of course, depended [cclxxiii] upon that of the law officers, for what he had received was that which they had given him.

This plea of justification the Supreme Court cast out. The proceedings of the Kazi and the Muftis, the Judges held, were illegal. The Provincial Council, they maintained, had but a delegated authority from the President and Council; and “it is an allowed maxim of the law of England ‘*delegatus non potest delegare*’.” The Provincial Council had no right to delegate to its law officers the hearing of the suit, and to give a decision upon the basis of a mere report.

The above is an extremely condensed account of the Patna Cause, and of necessity several interesting features in the cause have been passed over. If we hold with Impey that the documents on which the widow based her claim were not forgeries, and that the Kazi and his officers were not acting in good faith, our sympathies will be much stirred by

Mill's account of their sufferings ... ..<sup>25</sup> Bogle,<sup>26</sup> the Company's Commissioner of Law Suits, however, was of opinion that the deeds were forged and that the Kazi and Muftis' report was not only in good faith but substantially true. That the proceedings of the Kazi and the Muftis were irregular cannot be doubted. "I cannot but take notice," wrote Hastings, "of the irregularity in the proceeding of the law officers ; whose business was solely to have declared the laws. The Diwani Court was to judge of the facts ; their (*i.e.*, the law officers) taking on themselves to examine witnesses was entirely foreign to their duty ; they should have been examined before the Adalat." The report, moreover, was, as Sir J. F. Stephen puts it, wanting "in the most elementary notions of what is required for the investigation of matters of fact." On the other hand, it does not appear to have been the case, that the flight of the widow from the house was due to her intimidation by the Kazi and Muftis and the placing of peons over her place of refuge, an act for which the Council and not the law officers were responsible, and which seems to have been designed not to keep her prisoner, but to secure the property she had taken from the house, and to prevent, if necessary, the widow from doing one of those acts of violence to self, which ignorant and excited orientals have been known to perpetrate for the purpose of bringing trouble upon the officers of law.

At the commencement of the suit, a bailiff was dispatched from Calcutta to arrest Bahadur Beg and the Kazi. The Provincial Council, however, went bail for the prisoners ; the bail demanded amounting to Rs. 4,00,000. The Court mulcted the defendants Rs. 3,00,000 in damages and Rs. 9,208 in costs. After the judgement had been given, the defendants were despatched to Calcutta under a guard of sepoy ; [cclxxiv] the aged Kazi, however, died in the course of the journey. The other three prisoners remained in jail at Calcutta, until 1781, when an Act of Parliament directed that they should be discharged, the Governor-General and Council giving security for the damages. Although the time for appealing had passed, the Act permitted the three to prosecute an appeal, but, although on July 28th, 1784, an appeal was entered and referred to a Committee of the Privy Council, it was allowed to drop, and was finally dismissed in 1789. The Patna Cause became the subject of the second article of impeachment against Sir Elijah Impey, but this matter again was never carried to completion.

The rights and wrongs of the parties to the Patna suit, as has been pointed out, do not form any part of the present inquiry ; but the effect of the suit on the Government of the country was one of great importance. This cause betrayed in the most telling manner the essential weakness of the administrative machinery. During the hearing of the cause, the Chief Justice had occasion to remark that, in the important Province of Behar "those gentlemen of Patna, who sit in two capacities—in one a Council of Revenue

25. Curiously enough Sir J. F. Stephen after shewing what was the importance of the question whether the deeds were or were not forged, goes on to say "the interest of the matter has so completely passed that I have only looked over it cursorily and have not studied it."

26. Famous for his embassy to Tibet.

and of State and in the other as a Court of Justice—keep no separate books for their separate Departments, nor make any memorandums in their books, in which all their proceedings are confunded when they sit as a Council of Revenue and when as a Court of Justice; and their books are the only records of causes, I believe we might almost say this is the only cause entered in the book.” But for gross and habitual carelessness it is hard to see how the Patna cause could ever have arisen. Then again there was supposed to be an appeal from the decision of the Provincial Diwani Adalat to the Sudder Diwani Adalat. The Chief Justice said on this score: “Mr. Young says that there was an appeal to the Governor-General and Council in the Sudder Diwani Adalat, and that the proceedings of the Provincial Council are regularly transmitted by the Governor-General and Council; but Mr. Young gives no instance of any appeal, and I doubt the fact of there having been any since the establishment of the new Government. The Sudder Diwani Adalat was abolished or discontinued in 177 [5], and it is well known that the Governor-General and Council never sat in that Court, and we never heard of any Court of Appeal being instituted in its room; in fact there has not since that period.”<sup>27</sup>

In what sense was Bahadur Beg subject to the jurisdiction of the Supreme Court? This was a question of real importance, and the answer given to it by the Court in fact produced some panic in Behar. It was proved that Bahadur Beg farmed the revenue of of certain villages in Behar, and the Court, therefore, determined that he was “a subject of the jurisdiction of this Court, as being directly or indirectly in the service of the East India Company.” Consequent upon the judgement in the Patna cause, no less than thirty-nine of the Behar farmers petitioned the Provincial Council that they might be permitted to relinquish their [cclxxv] farms, on the ground that “the zamindars and ryots are at all time glad of any pretexts to evade the discharge of their rents, and some consequence and authority is absolutely necessary to enable the farmer to make his collections, but when he is liable on any trifling complaints to be treated in this ignominious manner what influence will remain to him? or who will be daring enough under this predicament to exercise any power to enforce the collections?”<sup>28</sup>

2. *The Cossijurah Cause.* Cossinaut Babu had in vain attempted to obtain through the Calcutta Board of Revenue a large sum of money he had lent to the Zamindar or Raja of Cossijurah. He, therefore, determined to commence a suit in the Supreme Court; and, in order to shew that the Raja was a person subject to the jurisdiction of that Court, on August 13th, 1779, he filed an affidavit stating that the Rajah was employed in the collection of the revenues. Fortified by an opinion of their Advocate-General, Sir John Dey, the Governor-General and Council, issued a notification to all landholders informing them that, if they were neither servants to the Company nor persons who by their own consent had submitted to the jurisdiction of the Supreme Court, they were not subject to that jurisdiction, and that they should therefore pay no attention

27. Stephen: *Op. cit.* vol. ii. p. 181.

28. *Ibid*: vol. ii. p. 183.

to the Court's process. The Raja received a special intimation to the same effect, and in consequence he and his people drove away the Sheriff when that official came to Cossijurah with a writ for the Raja's arrest. The Court, therefore, resorted to extreme measures. Accompanied by a force of some sixty or seventy persons, mostly sailors from the ships, the Sheriff of Calcutta marched to Cossijurah, seized the person of the Raja, and, as usual, it was stated, the Englishmen outraged the sanctity of the family idol, and broke into the zenana. In the meanwhile, however, at the orders of the Governor-General and Council, Colonel Ahmuty had set the troops at Midnapur on the march, and the Sheriff, on the return journey to Calcutta, was surrounded and deprived of his captive.

The next step taken was by Cossinaut Babu, who brought an action for trespass against the members of the Supreme Council individually. At first the Governor-General and his colleagues entered their appearance, but finding that they were being sued for an act done by them in their corporate capacity, they all, excepting Barwell, withdrew. The wrath of the judges found a victim in the person of North Naylor, the Company's attorney, whom they committed to goal on a charge of contempt. The unfortunate lawyer, who had been in weak health for sometime previous to his imprisonment, heard while in prison the news of his wife's death, and shortly after his release he followed her to the grave. The legendary history of Calcutta has it that Naylor, reduced to the last state of weakness by his sufferings, died in prison.<sup>29</sup>

[cclxxvi] At the time when the Cossijurah troubles were at their height, Calcutta was thrown into a state of wild excitement by other matters connected with the Supreme Court and with which the European inhabitants were more immediately concerned. In March, 1779, a petition was set on foot for trial by juries in civil cases affecting Europeans, and it was this petition which brought about the appointment of a parliamentary Committee (Touchet's), who in 1781 published a voluminous report on the history of the controversy between the Supreme Court and the Council. It was even suggested during this time that the out-break of war with France would justify the supersession of the Court's activities and a proclamation of martial law. There were not wanting men of sound judgement and long Indian experience who maintained it that unless the judges were packed off home, the British Empire in India would fall to ruins.

The survey of the history of these years, 1774-1780, shows the fact that the method of the authors of the Regulation Act had produced a most serious harvest of evils. That method was to impose a feeling of responsibility on the Company's servants by confronting persons accused of oppressive conduct with the displeasure of a Supreme Court composed of His Majesty's puisne judges. The Company itself had ordered the members of the Committee of Circuit (1772) to be prosecuted before the Supreme Court, but in the

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29. Impey's son in the *Memoir of Sir E. Impey* attempts to prove that the Chief Justice was absent at Chittagong at the time of Naylor's imprisonment. This, however, will not stand. It was Impey who committed Naylor to jail, stating that he intended the punishment to be exemplary.

end the Company came to regard the Supreme Court with the horror with which Frankenstein regarded his own handiwork. The method of holding the Company's servants responsible by actions brought against them for their procedure as public servants was calculated to intimidate the fearful as well as to restrain the over bold ; it ruined the moral influence of the executive, and exposed the officers of government to continual persecutions by litigious and irresponsible persons. That the government of the country was seriously disturbed by the intervention of the Supreme Court in matters belonging to the Diwani cannot be doubted, although it should be obvious that to cast the blame on the Judges personally, as was done by the impeachers of the Chief Justice, and by Mill and Macaulay in their writings, is not an honest proceeding. The Judges were but what the framers of the Regulating Act had made them. The Act had imposed upon them, although in legally vague and insufficiently stringent terms, the task of dealing with oppression in the executive government.

In 1781, Parliament, having in view the facts brought to light by the Patna cause, provided <sup>30</sup> that no person should be held to be subject to the jurisdiction of the Supreme Court solely on the ground that he was a revenue farmer or zamindar, and no one was to be subject to that jurisdiction in cases of inheritance and succession simply on the ground of his being in the Company's employ.<sup>31</sup> This measure made [cclxxvii] it possible to substitute a system of appeals for the unworkable method of the Regulating Act—the method of visiting the abuses inherent in the Diwani Courts with actions against officers, whose faults may have been, and probably in most cases were, due to a too great loyalty to established custom.

30. 21 George III. Cap. LXX.

31. In regard to Impey's principles as to the amenability of the zamindars as such to the Supreme Court, Mill is most unfair ; indeed he violently distorts Impey's language. Impey's position was *not* that Zamindars were in the Company's employment. Writing to Lord Weymouth, on March 12th, 1780, Impey says : "The Court does not, nor ever did, claim any jurisdiction over zamindars, simply as zamindars, but that their character of zamindars will not exempt them from the jurisdiction of the Court if they are employed or be directly or indirectly in the service of the East India Company or any other British subject." Sir J. F. Stephen (*Op. cit.*, vol. ii, p. 217) shows that Mill (*Op. cit.*, vol. iv, p. 241) ascribes to Impey expressions which simply are not to be found in the three letters to which Mill refers. Impey distinguished the case of a farmer from that of a zamindar.

## CHAPTER XIV

### SIR ELIJAH IMPEY AND THE SUDDER DIWANI ADALAT.

[cclxxviii] In a letter relating to the Patna Cause, George Bogle, who at that time occupied the post of Commissioner of Law Suits,<sup>1</sup> states the reason why the administration of justice was of necessity in the hands of native officials. Having expressed the conjecture that the Provinces of Bengal, Behar and Orissa contained in all probability some ten million inhabitants, he goes on to say "the number of Englishmen now employed in carrying on the Civil Government over so many people is probably not above 200 or 300; a very large portion of these are, and must be, engaged in different offices of the Presidency, and the greatest part of the remainder are taken up in collecting a revenue of three millions of money and in providing an investment for remitting the surplus revenue to England without which the Provinces would not be worth keeping. The number, therefore, of Englishmen qualified for the administration of justice who could be appointed for that duty, does not exceed twenty or thirty. If the numerous disputes that arise among so many millions of people, were to be tried and decided only by these twenty or thirty Englishmen, it would be impossible to carry on the government of the country."<sup>2</sup>

The paucity of the cadre of the Company's Civil Service must have constituted one of the greatest difficulties in the way of Hastings' practical reforms; but the violence to which the conflict between the executive and judicial authorities had reached in 1779, compelled the Governor-General to devise and institute some plan by which the judicial and revenue officers might in the future do their work with the minimum amount of friction. On April the 11th, 1780, therefore, the Governor-General and Council passed a series of Regulations for the Administration of Justice.<sup>3</sup> By these Regulations the jurisdiction of the Provincial Councils of Revenue "in all causes which have an immediate relation to the public revenue"<sup>4</sup> stood confirmed, but, whereas in past [cclxxix] years

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1. In their General Letter to Bengal, dated 23rd December, 1778, the Court of Directors express disapproval of the creation of the office of Commissioner of Law Suits, and order it to be abolished.

2. *Patna Appendix to Report of the Committee of House of Commons on Touchet's Petition, 1781.* [India Office, Record Department, Parliamentary Branch, Collection No. 9].

3. These Regulations, recorded on the Revenue Proceedings of Government on the 28th March, 1780, are printed in Celebrooke's *Supplement to the Digest*, pp. 14-22.

4. Such as (1) "demands of Government on all Zemindars, talookdars, chowdries, farmers, muthoraheds, waadadars, securities, aumils, taseeldars, etmaumdars, shaikdars, or others employed in the collections, or anyways responsible for the revenues immediately under the Provincial Councils; (2) demands of zemindars, talookdars, chowdries, farmers, mutthaaheds, waadadars, securities, aumils, taseeldars, etmaumdars, shaikdars, etc., on their under-farmers, Malzamins, inferior land-holders and collectors, or others, from whom rents or revenues are immediately due to them and in short, all demands for rents and revenues, of persons employed in the collection of them, either officially or hereditary, in the

the Members of the Provincial Councils sat in turn to decide civil cases in the several district Adalats, it was now decided, by the first and second Regulation :—

“1. That there shall continue to be Courts of civil judicature in each of the Grand Divisions of Calcutta, Moorshedabad, Burdwan, Dacca, Pura and Patna ; and that over each of these Courts, a Company’s covented servant shall preside, under the title of Superintendent of the Dewannee Adalat.

“2. That the Superintendent of each Dewannee Adalat shall be appointed by the Governor-General and Council ; and that his jurisdiction shall be separate from, and independent of the Provincial Councils.”

To obviate an introduction in the districts of the same kind of contentions between executive and judicial officers as those which had caused so much commotion at the Presidency, it was laid down in the 13th and 14th of the Regulations :—

“13. The Superintendent of the Adalat shall issue his summons, under the seal. He shall not summon from the mofussil, farmers or zeminders, or persons employed in the collections immediately under the Provincial Councils ; but he may order their vacqueels to appear ; and, in case of their not sending vacqueels properly authorized he is to apply to the Chief and Provincial Councils to summon the parties themselves, as directed in the 14th Article. He may summon inferior persons from the Mofussil, under the following restrictions, viz. that he shall not send peons, or any other persons, with authority, into the lands belonging to the zeminders and farmers, excepting only on such occasions, as shall indispensably require it, for the immediate execution of justice. That, on such occasions a warrant, under the public seal and signed by the Superintendent shall be given, in writing to the officers employed, and be recorded in the judicial proceedings with the reason for issuing it ; but that no person be summoned on ordinary occasions, except by a tullub chity to the farmer, or order requiring him to produce the person summoned in a certain space of time That the Superintendent shall further avoid as studiously as possible, summoning any persons from the Mofussil who are any ways connected with the revenue, during the months of Badhoon [cclxxx] and Assin, and Augun and Poos, unless in cases, which call for an immediate inquiry.

“14. Should the Superintendent require the personal attendance of the farmer, zemindar, or collector, he must make application to the Chief and Council ; who, if they judge it proper, will issue a summons to such farmer, or zemindar, or collector,

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different gradations downward, from Government to the ryots or immediate occupants of the soil ; and again, in the same manner, all complaints of ryots, and persons of any of the other above mentioned denominations, against the persons to whom they pay revenue, in the different gradations upwards, for irregular or undue exactions ; (3) and in general, for all oppressions, which do not fall under the cognizance of the Fouzdary Courts.”

The Provincial Councils, moreover, were to try and decide all disputes relative to boundaries, all claims for money lent to zamindars, talukdars, and chaudhris, for the payment of the revenue, but in the case of the Town of Calcutta within the limits of “Panchawan Ganj” (55 villages), disputes as to boundaries were to be decided by the Superintendent of the Calcutta Adalat.

under the provincial seal and signature of the Chief and Dewan ; but in all cases where they think proper to decline issuing such summons, at the requisition of the Superintendent, they shall assign their reasons, by letter to the Governor-General and Council, for such refusal.”

In all causes for sums not exceeding sicca Rupees 1,000, alienated or free lands not exceeding Rs. 100 annual produce, and malguzari lands whose annual revenue was less than Rs. 1,000, the decree of the Diwani Adalat was to be final ; but in causes in which the amounts were exceeded, an appeal was to lie to “the Governor-General and Council in their department of Sudder Dewanee Adaulut.” Vexatious and groundless appeals were to be punished ; and, as “a discouragement to the appellant to present his petition of appeal to the same person who decided against him in the first instance,” it was laid down that all petitions of appeal against decisions of the Superintendent of the Adalat should be presented to the Chief of the Provincial Council of the particular district, and that he should forward the same to the Governor-General and Council.

The 24th of the Regulations was designed to effect a very necessary reform :—“that whereas it has been so much the practice in this country for individuals to exercise a judicial authority over their debtors—a practice which is not only in itself unlawful and oppressive seeing thereby a man becomes judge in his own cause, but which is also a direct infringement of the prerogative and power of the regular Government ; that publication shall thereof be made, forbidding the exercise of all such authority, and directing all persons to prefer their suits to the established Court of Adaulut ; and that the Superintendent shall particularly attend to this regulation, which it is apprehended will prove the means of relief to the helpless ryot from his merciless creditor the money-lender.<sup>5</sup> But that the Superintendent, for the relief of the poorer people, shall have the power of referring causes, not exceeding 100 Rupees, to Zemindars or public officers, or arbitrators chosen by the parties, residing near the spot where the cause of action shall have arisen ; subject, however, to his revisal, in cases of flagrant injustice or partiality.”

The concluding Regulation stated that “these Regulations shall be considered as binding only until a new arrangement shall be made by authority of Parliament”.

[ccclxxxi] Writing to Dunning, Sir Elijah Impey passed the following criticism on these Regulations :—

“The corruption and maladministration of the Adauluts, or Country Courts of justice in which the members of the Provincial Councils presided, was so notorious, that when the resolution was taken to oppose the legal functions of the Supreme Court, it was thought necessary at least to preserve some appearances of having justice administered

5. So far the 24th Regulation of the 11th April, 1780, is a repetition almost word for word of 20th Regulation of 15th August, 1772. Arts. 26 and 27 of the former Regulations correspond exactly with Arts. 22 and 23 of the latter Regulations, and Art. 25 of the former differs only from Art. 21 by the change of the word “Superintendent” for Collector. Art. 15 of 1772 becomes the 19th Article of 1780.



in the Provinces. The Government has, therefore, abolished these Adalats, and erected new ones, over each of which is placed one of the *junior* servants of the Company, who is (which was never expected before of any judge of an Adalat) to take oath to administer justice impartially and accept no bribes. The gentlemen appointed judges are, for—

Patna, John Guichard Booth made a writer in	1776
Dacca, Alexander Ducannon „ „ „	1772
Dinagepoor, Benjamin Grindal „ „ „	1773
Burdwan, Hugh Astin „ „ „	1772
Moorshedabad, Thomas Ives „ „ „	1773
Calcutta, Thomas Dugal Campbell „ „ „	1771

Each of these, except the two last, decide not only on more property than the Supreme Court, but I believe I may safely say than all the Courts in Westminster Hall put together. Mr. Booth gives law to the whole Province of Behar. Though the Provincials had complained of the Adalats as part of their officers which were burdensome, responsible, and unprofitable and unprofessed to wish to be discharged of them, on the separation of them from the Councils there was almost a mutiny among them. Mr. Morse, one of the Advocats of the Supreme Court, applied to the members of the Councils and obtained a promise of being appointed one of the new judges ; but, when this was known to the Company's servants, it raised so general a clamour that the promise was not adhered to. It will be naturally imagined, as these men were not selected from the *senior* servants, that they stood distinguished for peculiar qualifications : but this is notoriously otherwise, except perhaps in the case of Mr. Campbell. One of them, Mr. Booth, is of the meanest natural parts, is totally illiterate in his own and ignorant of any eastern languages, and is one of the lowest, most extravagant, dissipated young men in the country. I doubt whether he is of age.\* Mr. Otto Ives considered the salary of his office, viz., 1,200 Sicca Rupees per month, so little worth his consideration, if restrained from other emoluments, and had so little idea of any other mora! [cclxxxii] restraint from corruption than the oath, that he for some time hesitated whether he should submit to the taking of it. These innovations were made without the least intimation, public or private, being given to me, or, I believe, to any other of the judges. The Sudder Adalat, or Court of Appeals, which had been discontinued ever since the appointment of the Governor-General and Council, was at the same time revived, but has not yet sat. Causes of consequence involving rights of zemindaries, etc., are not, as formerly determined there, but by the Board at large, simply on the report of an English gentleman, called Keeper of the Khalsa Records, without any evidence coming before the members of the Council.”

6. At the time of the Nanda Kumar trial, Alexander Elliot, who acted as Persian Translator, and held the important office of Superintendent of the Khalsa Records was, if of age, only just so ; and the Deputy Sherif was actually a minor.

On September 29th, 1780, Hastings produced in Council a minute of great historical importance. After noticing a tendency of the new Adalats to come into conflict with the Provincial Councils, and having remarked on the importance of keeping the new Courts under observation, he proceeded to propound his famous scheme for the revival of the Sudder Diwani Adalat, and expressed the hope that this scheme would relieve the already over-burdened Council of the weight of the business. He wrote :—

“By the constitution of the Diwani Courts they are all made amenable to a Superior Court called the Sudder Diwani Adalat, which has been commonly but erroneously understood to be simply a Court of Appeals. Its province is, and necessarily must be, more extensive. It is not only to receive appeals from the decree of the inferior Courts in all causes exceeding a certain amount, but to receive and revise all the proceedings of the inferior courts, to attend to their conduct, to remedy their defects, and generally to form such regulations and check as experience shall prove to be necessary to the purpose of their institution. Hitherto the Board has reserved this office to itself, but has not yet entered into the execution of it, nor, I will venture to predict, will it ever with effect, though half of its time were devoted to this single department.<sup>7</sup> Yet without the support and controul of some powerful authority held over them, it is impossible for the Courts to subsist, but they must either sink into contempt, or be perverted into instruments of oppression.

“This authority, I repeat, the Board is incapable of exercising, and if delegated to any body of men or to any agent not possessing in themselves some weight independent of mere official power it will prove little more effectual. The only [cclxxxiii] mode which I can devise to substitute for it is included in the following motions which I now submit, on the reasons premised to the consideration of the Board :—

“That the Chief Justice be requested to accept of the charge and superintendency of the office of Sudder Diwani Adalat under its present regulations, and such other as the Board shall think proper to add to them or to substitute in their stead, and that, on his acceptance of it, he be appointed to it and stiled the judge of the Sudder Diwani Adalat.

“I shall beg leave to add a few words in support of this proposition on different grounds : I am well aware that the choice which I have made for so important an office, and one which will minutely and nearly overlook every rank of the civil service, will subject me to much popular prejudice, and its real tendency will be misunderstood by many, misrepresented by more, and perhaps dreaded by a few. I shall patiently submit to this consequence, because I am conscious of the rectitude of my intentions, and certain that the event will justify me, and prove that, in whatever light it may be superficially viewed, I shall be found to have studied the true interest of the service, and contributed the most effectually to its credit.

7. On this Mill (*Op. cit.*, vol. iv, p. 245) comments : “If a judicial function of the highest importance, for which there was so extensive a demand, was left for seven years totally undischarged, what an opinion is it proper, we should form of a Governor-General and Council, who let justice remain in that situation ?

"The want of legal powers, except such as were implied in very doubtful constructions of the Act of Parliament, and the hazards to which the superiors of the Diwani Courts are exposed in their own persons from the exercise of their functions, has been the principal cause of their remissness and equally of the disregard which has been in many instances shewn to their authority. They will be enabled to act with confidence, nor will any man dare to contest their right of acting when their proceedings are held under the sanction and patronage of the first member of the Supreme Court, and with his participation in the instances of such as are brought in appeal before him and regulated by his instructions. They very much require an instructor, and no one will doubt the superior qualifications of the Chief Justice for such a duty.

"It will be the means of lessening the distance between the Board and the Supreme Court, which has perhaps been, more than the undefined powers assumed to each, the cause of the want of that accommodating temper which ought to have influenced their intercourse with each other.

"The contest in which we have been unfortunately engaged with the Court bore at one time so alarming a tendency that I believe every member of the Board foreboded the most dangerous consequences to the peace and resources of the [ccclxxxiv] Government from them. They are at present composed, but we cannot be certain that the claim will last beyond the actual vacation, since the same ground and materials of disunion subsist and the revival of it, at a time like this, added to our other troubles, might, if carried to extremities, prove fatal.

"The proposition which I have submitted to the Board may, nor have I a doubt that it will, prove an instrument of conciliation with the Court ; and it will preclude the necessity of assuming a jurisdiction over persons exempted by our construction of the Act of Parliament from it ; it will facilitate and give vigour to the course of justice ; it will lessen the cares of the Board, and add to their leisure for occupations more urgent and better suited to the genius and principles of Government, nor will it be any accession of power to the Court ; where that portion of authority which is proposed to be given only to a single man of the Court, and may be revoked whenever the Board shall think proper to resume it."

General Sir Eyre Coote expressed his concurrence with the Governor-General's proposal as a temporary measure, but the other two members objected on various grounds. Wheler dwelt on the questionable legality of the scheme, and maintained that the contemplated appointment of the Chief Justice to preside also over the Sudder Diwani Adalat would be contrary to the spirit of the Regulating Act. An English lawyer, he predicted, would be sure to import the alien English law into the native courts, and "might too much hide the government from the eye of the natives." Impey's appointment might perhaps serve to remove Impey from the arena of the conflict between the Executive and the Judges, but in principle the old causes of contention would remain unabated. Philip Francis objected to the scheme as "a direct contradiction or desertion of everything we said and did in the case of the Rajah of Cossijurah" ; it would in fact, he contended,

be regarded by the natives as a giving in to the aggression of the Supreme Court. The scheme involved an undesirable confusion between the duties of a Court of Appeal and a superintending Board, it would give the Chief Justice, a power of control over the affairs of the Company, and thus the Chief Justice would be placed in an impossible position. As Chief Justice he might feel himself bound to issue a habeas corpus for the release of the very person, whom he, in his capacity as Judge in the Diwani Court, had committed to confinement. On the one hand Sir Elijah might bring Diwani cases into the Supreme Court, and, on the other, the other Judges, retaining all their powers, and animated by the same principles which had hitherto been productive of a conflict between the two Supreme bodies, would be offended and perhaps further excited by the invidious selection of one of their number for a new and important post. There were *a priori* grounds on which the appointment of a single Judge of Appeal was open to objection; and the liberty of the Council to remove such a Judge at pleasure, would render him "in the hands of a corrupt Council an instrument of oppression"

[cclxxxv] Supported by Eyre Coote, Hastings with his casting vote carried his proposal,<sup>8</sup> and in October Impey accepted the post offered him, regarding the offer, after all that had passed, as a grateful proof of the real opinion of the Council as to the good faith of his former opposition.<sup>9</sup> It is worth while to notice that no offer of a salary accompanied the offer of the post of Judge of the Sudder Diwani Adalat. At the consultation of September, Hastings had recommended that a salary of sicca Rupees 5,000 per month should be attached to the office, but the consideration of this proposal was adjourned. Writing to his brother on November the 12th, Impey says: "No pecuniary satisfaction has been offered to me, but I do not suppose it is intended that my trouble is to go unrecompensed."

Mill and Macaulay have found no language too strong to denounce this scheme for the revival of the Sudder Diwani Adalat; recent writers view the whole matter differently, and the scheme is now generally regarded as "one of the wisest measures which Hastings

8. The New Regulations giving effect to this change, passed on the 3rd November, 1780, will be found in Colebrooke: *Op. cit.* pp. 22-27.

9. Mill, referring to the passage in Hastings' minute which alluded to "the dangerous consequences," etc., "forboded from the contest in which the Council had been engaged with the Court," says: "The imputation which was essentially involved in this proposition, and which the Governor-General cast upon the Chief Justice, was the most dishonourable, that ever was thrown upon the character of the most infamous of men." Mill: *Op. cit.*, vol. iv, p. 246. Mill takes Hastings to mean what in fact Hastings did not mean, that the offer of a salaried and important office would suffice to wean Impey away from the high sounding principles he had advanced in order to extend the jurisdiction of the Supreme Court and make him a tame and subservient Company's Servant. What Hastings did mean was that the provision of an efficient Court of Appeal on the part of the Company would preclude the abuses which formed an occasion for the intervention of the Supreme Court and so of a conflict between the Company's executive and the King's judges. Having distorted Hastings' meaning, Mill goes on to say "it might naturally have been objected to such a proposition, that the Chief Justice would never consent." This is a hint that Hastings knew that the Chief Justice had his price. Impey, on the contrary, considered the invitation to accept the office as distinctly flattering to himself.

ever planned or carried through.” It cannot be denied that Francis and Wheeler were right in pressing the objection that the measure did not preclude the possibility of cases of oppressions alleged against the revenue officials being brought before the Supreme Court, of which cases the Supreme Court, acting on the principles to which it had committed itself, would feel itself bound to take cognizance. In such cases, Impey might have found that his newly accepted office under the Company would seem to others, however free his own conscience might be, inconsistent with the independence of his position as Chief Justice. In Sir J. F. Stephen’s words, Impey “exposed himself to a temptation to which no judge ought to expose himself. He put it in the power of every suitor dissatisfied with his decision to say they were not unbiassed by his relation to the Company, and I think this was wrong, though I do not think it was actually corrupt.” On the other hand, not only had the Director’s apparent approval of the forcible measures taken by the Council in the Cossijurah matter made it improbable that the Supreme Court would again attempt to issue a process of the kind, but the [ccclxxxvi] provision of a really effective Sudder Diwani Adalat would make it extremely unlikely that a case would arise in which the Chief Justice would be subject to the kind of embarrassment anticipated for him, and such an emergency would be the more improbable when the rules drawn up for the Sudder Diwani Adalat were to be the work of the Chief Justice himself.<sup>10</sup> If, in order to stand free of reckless and absurd imputations devised by the spite of prejudiced persons, public officials were to refuse all but ideal appointments, the task of government would be impossible. Public servants cannot shirk the unpleasant duty of facing unintelligent misrepresentation and the present instance seems to have been an occasion when a great reform called for the services of a strong man sufficiently conscious of the rectitude of his intentions to be able to disregard the clamour of the prejudiced.

The plan Hastings put into action was opportune in itself, and the future revealed its wisdom. Although in November, 1782, in consequence of commands from the Court of Directors, the Governor-General and Council resumed the jurisdiction which had been entrusted to the Chief Justice in 1780, the children justified the wisdom of their father when in 1861 the Supreme Court was united with the Sudder Diwani Adalat to form the present High Court. Hastings, as Sir J. F. Stephen well says, “foresaw and laid the foundation of the policy by which Indian legislation was put under the direction of the Legal Member of Council, and by which the superintendence of the Mofussil Courts and an appellate jurisdiction over them were vested in the High Court. It would, I believe, have been well for India if that policy had been adhered to instead of being postponed as to part for fifty, and as to the rest for eighty years.”

It may be observed that what has been written in censure of the policy of 1780 is not so much an exposure of the illegality or the perils of Hastings’ measure, but a personal

10 The Act of 1781 excluding the Supreme Court from the control of revenue matters would have prevented such an emergency.

attack on Sir Elijah Impey.<sup>11</sup> Of [cclxxxvii] Impey, Macaulay permitted his audacious pen to write "no other judge has dishonoured the English ermine since Jeffries (Jeffreys) drank himself to death in the Tower," but he goes on to say "we cannot agree with those who have blamed Hastings for this transaction." If we were to agree with Macaulay that the offer of the post to Impey was "a bribe," we should have also to admit with Macaulay "Bengal was saved; an appeal to force was averted; and the Chief Justice was rich, quiet, and infamous."

Sir Elijah's service as Judge of the Sudder Diwani Adalat was of great utility. Between the months of October, 1780 and July, 1781 Impey compiled a code of regulations for the Diwani Courts, the benefit of which can hardly be overstated.<sup>12</sup> Turning from the caricatures of the man drawn by Mill and Macaulay to Sir Elijah's own letters, one is impressed by his high sense of duty, his love of the work for the work's sake, and indeed the very scruples of the man himself on just the very point where he has been so misrepresented as being utterly unscrupulous—the pay of his new appointment.

Some considerable time before Impey left Bengal a party had been formed, and, to Sir Elijah's knowledge, were working to prepare for his impeachment. The principal conspirator was Colonel Watson,<sup>13</sup> and the secret agent, a discredited barrister of the name of Anthony Fay. On May 3rd, 1782, the House of Commons voted for the recall of the Chief Justice to answer the charge of having "accepted an office granted by, and tenable at the pleasure of the servants of the East India Company, which has a tendency to create a dependance in the said Supreme Court upon those over whose transactions

11 After Sir J. F. Stephen's detailed examination of the whole subject of the alleged "bribe," it is scarcely necessary to do more than draw the attention of a casual reader to the fact that the assertions of Mill and Macaulay now stand exposed as historically worthless. The salary attaching to the office of Judge of the Sudder Diwani Adalat was not fixed until December 22nd, 1780, and Impey accepted the office with a natural expectation of a remuneration, but no promise of one. He drew the salary as it became due, but offered to refund it, should His Majesty's Ministers disapprove of his retaining it. Whether he ever made a refund it is not known. There were precedents to justify his acceptance of an office under the Company. Clavering and Monson had accepted the Company's pay as Commanders of the Company's army, and Sir Robert Chambers accepted the salaried post of Judge at Chinsurah when the Dutch settlement at that place succumbed to the English. Sir J. F. Stephen has also shewn that Macaulay's account of the struggle between the Court and the Council, is "absolutely false from end to end and in almost every particular." It is regrettable that each publishing season's reprints of Macaulay's *Essay on Warren Hastings* still go out to the public without one word of warning that the *Essay* is not even what a historical novel often is—poetically true. The Delegates of the Clarendon Press have set an example to the publishers of the kingdom by deciding that "regard for history forbids the issue of a reprint of the *Essay* at this time without a word of warning to the unwary reader."

12. Colebrooke : *Op. cit.*, pp. 37-86.

13. Of the Bengal Engineers. Watson was the founder of a dockyard in the neighbourhood of that part of Kidderpore which is known to-day as Watgunge (Watson's market). He served as second to Phillip Francis at the historical duel with Warren Hastings. Watson had lost a case in the Supreme Court, and hence his fury. For Anthony Fay see *Original Letters from India* by Mrs. Eliza Fay. (Reprint of 1909. Thacker Spink & Co., Calcutta).

the said Supreme Court was intended as a Controul.” This resolution was communicated to Impey by Lord Shelburne in a letter, dated July 8th, and received by Impey on January 27th, 1783. Impey did not, however, leave India till December 3rd., 1783, nor did he arrive in London till June, 1784. Curiously enough he held his office as Chief Justice until as late as November, 1787, when his resignation was accepted. Not until December the 12th, 1787, was his impeachment moved, and then among six articles of charge the Diwani Adalat appointment ranked as fifth and the Nanda Kumar case as first.

## APPENDIX

[cclxxxviii—ccxcii]

1. The Regulation of 11th April, 1780, established Mufassal Diwani Adalats at—

- |              |  |                 |  |             |
|--------------|--|-----------------|--|-------------|
| 1. Calcutta. |  | 3. Purnea.      |  | 5. Burdwan. |
| 2. Dacca.    |  | 4. Murshidabad. |  | 6. Patna.   |

Each of these Courts was to be presided over by a Covenanted Civil Servant.

2. The Regulations of 6th April increased the number of Mufassal Courts to eighteen viz. :—

\*1. Midnapur—

1. District of Midnapur.
2. „ Jellasure.

\*2. Roganautpore<sup>1</sup>—

1. District of Pauchet,<sup>2</sup> and petty mahals
2. „ Bishnupur.

3. Chatra—

1. District of Ramgarh [Hazaribagh]
2. „ Palamau.
3. „ Nagpur.
4. „ Kendy.
5. „ Karagdiha.
6. „ Chakai.<sup>3</sup>

\*4. Patna <sup>4</sup>—

1. Sarkar of Shahabad.
2. „ Behar.
3. „ Rohtas.

\*5. Lowya <sup>5</sup>—

1. Sarkar of Sarun including Hussipore.
2. „ Champaran including Betia

1. Raghunathpur, a small town in head-quarters sub-division of Manbhum.

2. Often written Patchet, Patchaet, Panchkot. See O'Malley : *Manbhum* (Bengal District Gazetteers), pp. 53-54, 195-97.

3. See O'Malley : *Monghyr* (Bengal District Gazetteers), p. 200.

4. It was directed that "the Court at Patna is to remain until it shall be found on future experience more expedient to transfer the seat of its jurisdiction to some more central situation".

5. Lauriya. See O'Malley : *Champaran* (Bengal District Gazetteers), pp. 160-61.



## \*6. Darbhāṅgh—

1. Sarkar of Tirhut.
2. „ Hajipur.
3. Part of Purneah, W. of the Coozah [Kosi] River.
4. „ Bhagalpur, N. of the Ganges.

\*7. Tawjepur <sup>6</sup>—

1. District of Haveli Pinjerah or Dinajpur.
2. „ Purneah (remainder).
3. „ Maldah and part of Rajshahi, E. of the Ganges.

## 8. Bhagalpur—

1. Part of district of Rajmahal, W. of the Ganges.
2. „ „ Bhagalpur, S. ditto.
3. „ „ Monghyr, S. ditto.
4. Parganahs of Sultanabad and Amaar.

## 9. Rangpur—

1. District of Rangpur including Baharband.
2. Cooch Behar.
3. Rangamati.
4. Goraghat and Bazuha.
5. Seroopur, Patiladaha and Beterband [Bhitarband].

## \*10. Nator—

- |                       |   |   |
|-----------------------|---|---|
| Division of<br>Nator. | { | 1. Parganah of Silberries [Salbaris]<br>proper. |
|                       |   | 2. Barbuckpore.                                 |
|                       |   | 3. Chowgong.                                    |
|                       |   | 4. Chewra.                                      |
|                       |   | 5. Behar, etc.                                  |
|                       |   | 6. Deyteah.                                     |
|                       |   | 7. Atteah.                                      |
|                       |   | 8. Burbazoo.                                    |
|                       |   | 9. Cogmari.                                     |
|                       |   | 10. Parganah of Saukny.                         |
|                       |   |   |

6. Regulation V provides “that the seat of the Adalat, which has jurisdiction over the districts of Purneah, Dinajpur, etc. be removed from the former of these places to Tawjepur, as a more central situation within its general jurisdiction, and therefore more convenient for those who are rendered subject to it”. It is significant of rapid and complete changes in Bengal that Mr. Beames, in his learned account of Akbar’s Subahs (*Journal of the Royal Asiatic Society*, 1896), could not trace the town of Tajpur. It is, however shown in Rennell’s *Atlas*.

12. Parganah of Pookareah.
13. Rokunpore.
14. Lashkarpur.
15. Chundly.
16. Jahangirpur.
17. Colligon.
18. Tahirpur.
19. Messideh.
20. Hattindah.
21. Feetagungpur.
22. Maukawer.
23. Cossimpur.
24. Kirbah.
25. Other parts of this Division, S. of the River, as are not annexed to the jurisdiction of Rangpur.

- \*11. Azmiriganj—Including all Sylhet and part of the Dacca Province to the N. of the Bramhaputra and Tista Rivers.
- \*12. Dacca—Including portion of Dacca Province, bounded to the N. by the Brahmaputra and Tista, to the E. by Tipperah and Chittagong; to the W. by the Megna River as far as Chandpur, and thence to the N. W. by the Kali-Ganga, and Puddah to Bhushna on the W., and the districts that form the eastern boundary of the Nator jurisdiction.
- \*13. Bakarganj—Portion of Dacca Province to S. W. of the Puddah and Kali-Ganga and to W. of the Megna from Chandpur to the Sea, having as its western limits the eastern frontiers of Bhushna and Jessore down to the mouth of the Raimangal, including all the islands belonging to and situated on the coast of the Dacca Province, excepting the parganah of Sandwip and its dependencies.
14. Islamabad—
1. District of Chittagong.
  2. „ „ Tipperah.
  3. Parganah of Sandwip and its dependencies.
- \*15. Murli—
1. District of Bhushna.
  2. Shahwejeal [Shahijil]
  3. Jessore.
  4. Parganah of Mahmud-Shahi.
  5. Saiyadpur.

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- |                       |   |   |
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|                       |   | 2. Barbuckpore.   |
|                       |   | 3. Chowgong.  |
|                       |   | 4. Chewra.  |
|                       |   | 5. Behar, etc.  |
|                       |   | 6. Deyteah.   |
|                       |   | 7. Atteah.  |
|                       |   | 8. Burbazoo.  |
|                       |   | 9. Cogmari.   |
|                       |   | 10. Parganah of Saukny.   |
|                       |   | 11. District of Bettoreah and the portion<br>of it S. of the Padma, |

6. Regulation V provides “that the seat of the Adalat, which has jurisdiction over the districts of Purneah, Dinajpur, etc. be removed from the former of these places to Tawjipur, as a more central situation within its general jurisdiction, and therefore more convenient for those who are rendered subject to it”. It is significant of rapid and complete changes in Bengal that Mr. Beames, in his learned account of Akbar’s Subahs (*Journal of the Royal Asiatic Society*, 1896), could not trace the town of Tajpur. It is, however shown in Rennell’s *Atlas*.

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jurisdiction of Rangpur.

- \*11. Azmiriganj—Including all Sylhet and part of the Dacca Province to the N. of the Bramhaputra and Tista Rivers.
- \*12. Dacca—Including portion of Dacca Province, bounded to the N. by the Brahmaputra and Tista, to the E. by Tipperah and Chittagong; to the W. by the Megna River as far as Chandpur, and thence to the N. W. by the Kali-Ganga, and Puddah to Bhushna on the W., and the districts that form the eastern boundary of the Nator jurisdiction.
- \*13. Bakarganj—Portion of Dacca Province to S. W. of the Puddah and Kali-Ganga and to W. of the Megna from Chandpur to the Sea, having as its western limits the eastern frontiers of Bhushna and Jessore down to the mouth of the Raimangal, including all the islands belonging to and situated on the coast of the Dacca Province, excepting the parganah of Sandwip and its dependencies.
14. Islamabad—
1. District of Chittagong.
  2. „ „ Tipperah.
  3. Parganah of Sandwip and its dependencies.
- \*15. Murli—
1. District of Bhushna.
  2. Shahwejeal [Shahijil]
  3. Jessore.
  4. Parganah of Mahmud-Shahi.
  5. Saiyadpur.

## \*16. Calcutta—

1. Parganah of Krishnagar.
2. Chakla of Hughli, including Hijili, and 24-Parganahs and Mahomud-Aminpur [Muhammad Aminpur. 7]

## \*17. Burdwan—Chakla of Burdwan, and the district of Sautsyka and tannah of Cutwah [Katwa].

## [ccxc] \*18. Murshidabad—

1. Parganah of Birbhum.
2. „ Rajshahi, excluding Ammar and Sultanabad annexed to Bhagalpur, Surrupur, Patiladah and Beeterband annexed to Rangpur.
3. „ Futtehsing.
4. Remainder of zilah of Murshidabad, S. of the Padma excepting Bhushna, tannah of Cutwah, and Shahijil.

The Courts in each of the districts marked with [\*] asterisk, being “situated in large towns,” were to be placed under the superintendence of a Covenanted Civil Servant to be styled a Judge (instead of Superintendent) and “distinct from that of the persons who remain in temporary charge of the collections”.

The remaining Courts (Chatra, Bhagalpur, Islambad and Rangpur) “being in general situated on the frontiers of Provinces, and too poor and thinly populated, that any additional courts or jurisdictions, instead of affording relief, might be productive of vexation to the inhabitants,” were to be presided over by the Collectors, “until a more complete jurisdiction can be established”.

## 3. By the Regulations of 5th July 1781, the following changes were made :—

1. The Mufassal Diwani Adalat at “Loyah” was transferred to Massey, *i.e.*, Mehsi in Champaran district.
2. Ditto ditto at “Rogonautpore” to Rajhat.
3. Ditto ditto at “Azmeery Gange” to Sultemoe [Sultansi.]

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7. O'Malley : *Hooghly* (Bengal District Gazetteers), p. 296.

## CHAPTER XV.

### HASTINGS vs. FRANCIS

[ccxcii] Philip Francis had not been slow in making the discovery that the transactions of the Committee of Circuit would supply him with materials for his arraignment of the Governor-General on the charge of having brought a once flourishing country to the verge of ruin. As speedily as possible after his return to England in 1781 he caused the minutes of the Council in which the revenue debate stood recorded to be printed and published. The volume forms a monument to its compiler's skill as a controversialist. In it Hastings stands at that disadvantage which a statesman must stand who is concerned with the government of a country whose varying circumstances call for a constant modification of opinion,<sup>1</sup> and in whom the sort of consistency which appeals to the superficial critic would be in reality a treason to facts. Francis understands how to make the fullest use of his opponent's disadvantage : he is a past master in the art of catching his foe by his own words. Francis himself would rank first among the judges who have expressed a high admiration of Hastings' power as a writer of state minutes—so clever a warrior did not make the mistake of despising his enemy. Admirable as Hastings' writings are, it must be owned that they do to some extent justify what Francis said of them in the House of Commons : "I am thoroughly acquainted with Mr. Hastings' style, and the rapidity of his invention. I know the powers of his pen, and how implicitly he confides in them. I know that, between a feeble memory and a brilliant imagination, he is apt to fall into such a total misconception of facts, as would be very distressing to his argument, if it were not united with an unlimited command of words . . . .Mr. Hastings' judgment, now and then, is hurried away by his genius. He abandons himself to his pen, and writes, *currente calamo*, whatever the convenience of an instant argument dictates to his mind, without reflecting on anything which the service of the moment might have engaged him to say yesterday, or looking forward to anything which the spur of the occasion may incite him to say to-morrow".<sup>2</sup>

Francis' volume of Minutes undoubtedly exercised a great influence in preparing for the revenue policy dictated by Pitt's India Act of 1784. This fact is fully recognised by James Mill who writes : "Francis had [ccxciii] been treated by the powers which were, with anything rather than respect. But his plan of finance was adopted with blind

1. "Every man who has long been employed in the management of the revenues of Bengal, will, if candid, allow that his opinion on many important points has varied, and that the information of one year has been rendered dubious by the experience of another." John Shore in *Fifth Report from the Select Committee on the Affairs of the E. I. Co.*, 1812. Appendix p. 169.

2. Philip Francis : *Speech in the House of Commons on Friday, July 2, 1784*, London : 1784.

enthusiasm, with a sort of mechanical and irresistible impulse".<sup>3</sup> Francis may with justice be described as the original promoter of the Permanent Settlement of Bengal.

In 1775 three years of the quinquennial settlement had been completed. For this settlement Hastings was bound to act as the official apologist. In a minute of January the 10th, he asserted "the plan of letting the lands has not miscarried, and is still in our opinion the best that could be adopted. What deficiencies have happened in it have proceeded from eventual causes, which have been fully explained, and which no general plan could prevent". To the assertion that the plan had not miscarried, Francis replied by the following statement of the accounts of the Diwani lands as they stood on July 28th, 1775<sup>4</sup> :—

	Rs.
Received into the Khalsa . . . . .	1,05,90,403
Valuation of salt . . . . .	51,20,014
Balance of cash in the Provincial Treasuries . . .	22,63,844
Total Receipts . . . . .	1,33,66,261
Difference between the Settlement of the Committee of Circuit and the Receipts . . . . .	58,86,277
Revenue settled for the Diwani lands for the year ending April, 1773 . . . . .	1,92,52,538

To Hastings' observation (May 16th) that the Members of the Committee of Circuit could have had no personal interest in deceiving the Court, Francis retorts : "They (the Committee) form a settlement upon an increasing *jumma* for five years, which they know can never be realised ; they strain and exhaust the country for the first year or two ; establish their own fortunes, and leave it to their successors to answer for the subsequent disappointment of the Company's expectations,<sup>5</sup> and to extricate the country and the Government, if they can, from the difficulties in which they have involved them".

3. Mill : *Op. cit.*, vol. v, p. 332. Francis did not receive the honour of knighthood till 1806 His banner still until a year or two ago hung over a stall in Henry VIIth Chapel in Westminster Abbey.

4. Francis : *Original Minutes of the Governor-General and Council of Fort William on the Settlement and Collection of the Revenues of Bengal, with a Plan of Settlement recommended to the Court of Directors in January 1776*. London, 1782. In reference to the attack on the Committee of Circuit see Hastings' Minute of 29th May, 1776. Forrest : *Selections*, vol. ii, p. 524 *et seq.*

5. "The promised increase of revenue, with which the Company were deluded, and for which no little merit was assumed in Bengal, would have amounted to a very considerable sum, if it had been realised. At the end of the five years, the remissions and balances on that settlement amounted to 230 lacks and 83,852 sicca rupees."... In March 1778 the Court of Directors ordered the Governor-General and Council "forthwith to commence a prosecution in the Supreme Court of Judicature against the persons who composed the Committee of Circuit on their representations." Francis : *Minutes*, Preface.

[ccxciv] On March 21st, 1775, the Governor-General moved that the separate opinions of the Members of Council as to the most eligible method of settling and collecting the revenues should be recorded, and the opinions be submitted in writing to the Court of Directors. This suggestion evidently put the opposition to confusion, for while Hastings and Barwell were ready with a joint plan, Clavering, Monson and Francis had to admit, in the form of a minute : “at this moment we should be very much embarrassed if we were called upon to make a new settlement of the lands, and were entrusted with power to do it”. The Hastings-Barwell plan, formally dated April 22nd, 1775, was already known to the adverse triumvirate, and on April 11th, they express their fury :—

“Since our arrival in this country, and during all our debates with our colleagues, we have not met with a circumstance, that has filled us with greater astonishment than the terms and purport of the plan proposed by the Governor-General and Mr. Barwell for the new Settlement of the Provinces at the expiration of the present leases. That gentlemen who have contributed to subject the constitution of this country, and the rights of the natives, should wish to revert to that Government they have so lately upset, and should so far forget themselves as to recommend the abolition of that very system, which they every day support, which the Governor-General has declared, in one of his late minutes, to be still in his opinion *the best that could be adopted*, and our disapprobation of which is constantly the subject of their censure, is only to be explained by themselves. This conduct in other persons might appear inconsistent. In them it is uniform and consistent to that instability which characterises their government”.

Nowhere in his book does Francis recognise the fact that the Committee of Circuit did in many instances form their settlements with the zamindars and talukdars. It is, of course, part of his business to ignore a fact so prejudicial to his cause, and to represent the zamindars as altogether deprived of their rights. “The lands in general” he writes, “were put up to a public auction, in which strangers were invited to bid against the proprietors, and either ousted of the possession, and management of their estates, or allowed to retain it on the footing of farmers . . . . The farmers, many of whom were Calcutta banyans, and who knew nothing of their business, were in some cases obliged to employ the real proprietors as their under farmers or tenants”.

The plan put forward by Hastings and Barwell commences with a historical sketch in which the considerations which actuated the policy of the Committee of Circuit are explained. Under the farming system, “the Burdwan province had been greatly improved, and its value [ccxcv] ascertained since its cession to the Company. It was hoped that the same good effects would be produced in the rest of Bengal . . . . The ascertaining of the value of the several districts has been sufficiently accomplished, but we will not say that the desired improvement has taken place. It has been chiefly obstructed by a coincidence which could not be foreseen; we mean the farmers having engaged for a higher revenue than the districts could afford”.

This explanation was in a twofold way unfortunate. The assertion “the ascertaining of the value of the several districts has been sufficiently accomplished” gave Francis the



very sort of opportunity he knew so well how to make a use of, when in the following November the Governor proposed to institute a Commission in order "to obtain accurate states [statements] of the lands, as the grounds on which a new settlement of the Provinces was to be constructed".<sup>6</sup> The Government seemed to be like those foolish women whom the Apostle describes as always inquiring, but never reaching, a knowledge of the truth. Again, to assert that the nugatory results of the farming system, arising from the readiness of farmers to make purely speculative offers, and to abscond in the event of failure to realise their profit or fulfil their obligations, could not be foreseen, was to ignore the experience of the past.<sup>7</sup> That the farming system was open to such an abuse stood on record; and it might also be urged that those unable to foresee so likely a contingency were not competent persons to form a revenue settlement.

The proposals put forward by Hastings may now be considered in order:—

*Proposal I.*—All taxes imposed on the ryots since the Company obtained the Diwani be entirely abolished. The Committee of Circuit had abolished some impositions, but the prospect of decreasing the revenue had set a limit to their measures. The amount of taxes imposed since the acquisition of the Diwani would be hardly less than fifteen lakhs of rupees, and, with perhaps the exception of Burdwan and the 24-Parganahs, no part of Bengal had been exempt from their incidence.

*Proposal II.*—The 24-Parganahs be sold as zamindaris at public auction, in lots not exceeding a *jama* of 20,000 or 30,000 rupees a year. Europeans might be allowed to bid "provided they can be made amenable to the revenue courts and subject to the same regulation as [ccxcvi] natives, with respect to the payment of their rents, and the treatment of their ryots".<sup>8</sup>

6 The Court of Directors, in their letter of 4th July, 1777, dwell on this inconsistency: "A Committee of Circuit formed, who, we were told, precisely and distinctly ascertained what was necessary to be known, and now, in 1777, two junior servants with the assistance of a few natives, were employed to collect and digest materials, which have already undergone the collection, inspection and revision of so many of our servants of all denominations".

7. *Vide* the statements of Verelst above p. [cxlii] *et seq.*

8. "Being of a more enterprising spirit than the natives, they would be more likely to introduce new manufactures, and even to import an accession of inhabitants from foreign countries, and they would in time become an addition of strength to the British Empire in India". Francis held a diametrically opposed view of English settlers in Bengal. "Europeans in Bengal", he writes, "should be limited to as small a number as the services of Government will admit of". "There is no fund but the public revenue out of which they can derive a subsistence. One way or other it is paid for by the country, and one way or the other must become chargeable to government. Exclusive of public employment, or contracts with the India Company, there is no occupation for the industry of Europeans in Bengal. Every enterprise they engage in, whether of foreign commerce or internal improvement, leads them into distress, if it does not end in their ruin. Even of adventurers, pursuing every mode of acquisition that offers, very few, if any, have succeeded". Francis goes on to argue that such adventurers must in time become, "colonists," whose attachment to Great Britain will decline in proportion to their severance from it, and so Bengal may "neither pay tribute nor obedience to England." The use of the expression "the British Empire in India" in the Hastings-Barwell plan may be contrasted with Francis' dictum: "Under a European Government, Bengal cannot flourish".

*Proposal III.*—The revenue to be paid by the purchasers be settled at the medium of what was actually collected in the three preceding years, with an allowance of 15 per cent. (“their just profit as zamindars”) for the charge of collection and their profits.

*Proposal IV.*—That the revenue do remain fixed at this rate during the life of the purchaser. That the Government be at liberty to sell the zamindari if the zamindar be deficient in his payments. “An annual increase would put the zamindars to difficulties, which would eventually produce oppression and prevent improvement, and reductions would become necessary, as at present, in unfavourable seasons. *If the revenues be fixed the profit of one year will compensate the loss of another*; and should the zamindar, through his own misconduct, be at any time deficient in his payment, a purchaser would never be wanting to take the zamindari on terms which would secure to Government its just revenue”.

*Proposal V.*—That, on the death of the purchaser, the zamindari shall devolve to his heirs. That it shall then be at the option of the Government to continue it fixed to him at the same rate as was paid by the purchaser, or to make a new hustabood of it, and settle the rent on the medium of the actual collections of the three preceding years, in the manner proposed in the third Article, with this proviso, however, that, whatever may be the result of the hustabood, no greater increase shall be levied than ten per cent. on the preceding lease. That the expense of the hustabood be defrayed, half by the Government, and half by the zamindar. If the new zamindar agrees to an increase of ten per cent. a hustabood will be unnecessary: this, however, should not be demanded unless the preceding zamindar had possessed the estate at least ten years.

*Proposal VI*—That should the new zamindar refuse to hold the zamindari at the same rate as was paid by his predecessor, he shall either sell it to some other person, who will be answerable for the revenue, or else it shall be forfeited as an escheat to Government.

[ccxcvii] *Proposal VII.*—That should the new zamindar refuse to hold it on terms of a hustabood, as proposed in the fifth article, he shall receive an allowance of ten per cent, on the preceding settlement, and the Government shall be at liberty to farm it out on the best terms procurable.

*Proposal VIII.*—Should the zamindar be a minor, and guardians have not been appointed by the father, the Government shall take the zamindari under its own charge, till he attains the age of eighteen years, and be at liberty to farm it out on the best terms procurable, setting apart for him an allowance of ten per cent.

*Proposal IX.*—As soon as he attains the age of 18 years, the farm shall be offered to him on the terms proposed in the Vth article: and, if he refuses to hold it on any of these terms, the Government shall be at liberty to farm it out, as in the VIIth article.

*Proposal X*—All other districts of Bengal be farmed out on leases for life, or for two joint-lives, to such reasonable people as shall offer the most advantageous terms,

allowing a preference to the zamindars, provided that they have attained the age of eighteen years, if their offers are equal or nearly equal to those of others ; or if they are equal to what the Council shall judge to be the real value of the lands. Unless the Council are given the power of deciding the real value of the lands, and let them at that to the Zamindars, "it will be impossible to prevent the mischief of districts being over rated, as at the five years' settlement, by people offering more than can be offered consistently with justice to the ryots."<sup>9</sup>

*Proposal XI.*—That it be expressly stipulated that no attention shall be paid to any proposals for an annual increase : it being meant that the same revenue shall be paid for the first year as for the subsequent years : that no increase shall be levied or deduction allowed on any account or pretence whatever.

*Proposal XII.*—That it be observed as an invariable rule, that, if any Zamindar fails in his engagements, his zamindari, or a fifth part of it, as may be necessary to pay the deficiency, shall be publicly sold. The purchaser to hold it either on the terms of a hustabood, as proposed in the VIIIth article, or according to the preceding settlement, [ccxcviii] as may be specified in the advertisement. The following rules should be observed :—

- (1). If the land to be sold be a parganah separated from a large zamindari, its extent should be ascertained by hustabood.
- (2). If it be an entire small zamindari, the revenue should be fixed according to the preceding settlement, provided the Council have reason to believe that the said land was then rated at nearly its just value.

*Proposal XIII.*—The several regulations proposed in the IVth, Vth, VIth, VIIth, VIIIth and IXth Articles, relative to purchasers in the Calcutta Parganahs shall equally extend to the purchasers in the districts, and to the present zamindars.

*Proposal XIV.*—That whenever the zamindar does not farm his own zamindari his allowance be fixed at ten per cent. of the amount of the revenue settled by the Government.

*Proposal XV.*—Each zamindar, or the farmer, where the farmer has possession. be authorised to exercise a *faujdari* jurisdiction, and be made answerable for murders and

9. Hastings and Barwell continue : "It might be resolved that no proposal should be received from any persons, but the zamindars themselves, and that their terms should be fixed by the result of the hustabood as in the IIIrd Article. A kind of hustabood will indeed be necessary at any rate, according to our plan, in order to ascertain the taxes which have been imposed upon the ryots since the commencement of 1771 ; but to trust to it for fixing this settlement would be attended with great risk of injuring the Government, by the influence of the Zemindars preventing the delivery of just accounts, and by the temptation to which the *aumeen* would be exposed of corruption. Leases to farmers on fixed terms for life would interest them in the country equally with the zamindars, and in one respect would be more effectual. We mean by being granted to substantial men, who have money of their own to lay out in improvements. The principal argument in favour of the zamindars is the security arising from the power of selling their lands, when landed property is put upon such a footing as to become desirable."

robberies committed in his district, agreeable to the old constitution of the Empire. 10

*Proposal XVI.*—Refers to Salt contracts.

*Proposal XVII.*—That these Regulations, or such part of them as shall be approved, and any others which the Honorable Court of Directors shall think fit to add to them, be passed into strict law by their express command. That it shall not be in the power of the Governor-General and Council to change or deviate from them, on any occasion or any pretence whatever ; and that copies thereof, in the English, the Persian and Bengali languages, be affixed to all the cutcherries of the Province, with the same authority declared for their establishment and duration.

The above are the actual proposals put forward by the Governor-General and his faithful Barwell, but the plan closes with a request for [ccxcix] the Directors' guidance in the matter of the inheritance of land and with some remarks relating to the revenue administration.

"Both by the Mussulmen (*sic*) and the Gentoo<sup>11</sup> laws", they write, "inheritance should be divided amongst the sons in equal proportions; yet it has been established by custom that the large zemindaries should not be divided, but be possessed entire by the eldest son, who is to support his younger brothers : on the contrary, it is usual for the smaller zemindaries to be divided out amongst all the sons ; but in many parts of the country the custom prevails that the eldest son should have something more than the others. The reverse of these customs, we think, would be for the interest of the Government ; we mean that the large zemindaries should be divided, and the small ones be preserved entire".

The proprietors of the extensive zamindaris, are described by the writers, as "generally oppressive and extravagant", and they are said to "possess influence which they employ in opposition to Government", and that "as Managers of estates they are indolent, leaving by far too much in the hands of their retainers". In case of war, they might even become formidable, as was the case in former times. "The collection of the revenues

10. The writers add : "The Foujedarry jurisdiction, according to the constitution of the Empire, is inherent in the zemindar, but it will be dangerous to entrust the execution of it to any other than the person who has charge of the collections, nor would it prove effectual in other hands. Continual jealousies and contentions would be executed between the farmer and the foudar. The farmer would suffer by the oppression of his ryots, if the latter had a superior influence, or he would make use of such a plea to obtain remission of his rents ; and the foudar would be unable to act, if the farmer's influence perverted, as the ryots would flee to him for protection." In his Minute of 29th May, 1776, Hastings explains : "The Foujedarry jurisdictions, which was affirmed by Mr. Barwell and myself in our Plan of the 22nd April last, to be inherent in the Zemindar, has no affinity with judicial authority but meant only the authority vested in the zemindar to guard and maintain the peace of the country. I am astonished to find in the minutes of the majority the same confusion of terms still prevail between the Foujedarry Adalut and that of the Foujedarry jurisdiction, the first of which mean the Courts of Criminal Justice, the second the officers of the police. The former were wholly independent of the zemindar, the latter were especially entrusted to his charge and inherent in the constitution of his office."

11. *i.e.*, Hindu.

from very small zamindaries was attended with little trouble or expense". With respect to the mode of managing the collections of the revenues and the administration of justice, none seems to us so good as the system which is already established, of the Provincial Councils, which is already established. . . . . We are under some apprehension, however, lest the Members of these should divide into parties, and so the currency of business be impaired. . . . . It is the natural consequence of dissensions in the superior Council, and our constant care will be required to prevent it".<sup>12</sup>

( On 22nd January, 1776, Philip Francis placed a rival plan on the minutes of Council, and this plan was in due course transmitted to the Court of Directors. The principal point of novelty in Francis' scheme is the proposal that the new settlement should, instead of being based on estimates of what the lands could bear in the way of payment of revenue, be deduced from an estimate of the actual requirements of the Company. ("The whole demand upon the country, to commence from April 1777, should be founded on an estimate of the permanent services,) which the Government must indispensably provide for ; with an allowance of a reasonable reserve for contingencies . . . . . I know not for what just or useful purpose any Government can demand more from its subjects ; for unless expenses are collected for the express purpose of absorbing the surplus, it must lie dead in the treasury, or be embezzled".) Having ascertained the amount the Government [ccc] needed to raise by land revenue, the contribution of the districts should be settled accordingly and "fixed for ever". Francis puts forward an estimate of expenses of Government and consequent revenue which he considers to be "liberal". )

Whatever might be advanced on behalf of this proposal from considerations of "tenderness to the zamindars", it is quite clear that Francis in 1776 was not in a position to estimate the expenses of the Government with such precision as to be able to dictate a permanent limitation of the resources of the State. His plan, as will be seen, required a total change in the existing system of administration, and until the new system had been some time in working order, it was impossible to ascertain whether or no the unappropriated surplus of Rupees 37,11,547 allowed for by his plan would be realised. As a matter of fact the expenses of Government during the years 1776-1784, show that Francis' estimate would have proved a disastrous miscalculation.<sup>13</sup> The plan, moreover, does not face the problem of the waste lands—a problem which the results of the famine had rendered especially worthy of attention. That lands not belonging to any recognised estate would be brought into cultivation was a contingency for which the authors of the

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12. At Dacca, R. Lindsay, being under the patronage of the Francis party, in order to secure the post of Resident at Sylhet, gets himself nominated by an adherent of Hastings.—Vide: *Lives of the Lindsays*.

13 On 16th June, 1784, Francis, speaking in the House of Commons, observed "that either the Ways and Means of 1784 had fallen short, or the services had exceeded those of 1776, to nearly the amount of £2,200,000, and that so alarming an alteration, whether in the revenues or in the expenses of the Bengal Government demanded the instant attention of Parliament."

Permanent Settlement made no provision—the cultivation of waste lands being, until the actual conditions of the land became better known, regarded as due to the enterprise of improving landlords. The adoption in 1776 of Francis' proposals would have brought about a state of things in which the holders of existing estates would have been subject to land revenue, from which the squatter would be immune.

Having laid it down as a primary principle—that the amount of revenue to be raised should be determined, not by any estimate of what the lands could be made to yield, but by an estimate, formed once and for all, of the actual requirements of Government, Francis proceeds :—

“When the gross sum to be levied from the country is determined as well for the revenue as for all charges incident to it, each zemindary should be assessed its portion . . . . . and let that sum be declared the quit-rent of these particular lands in perpetuity . . . . . This distribution should be called the *Tumar Jumma*, a term sanctified among the natives from the idea of security <sup>14</sup> which they had long been accustomed to annex to it. There is no case of necessity, no emergency whatsoever, which in my opinion should induce Government to increase the [ccc] *Jumma*.—Temporary distress may be provided for by temporary contributions, which a flourishing country does not feel. If these are once added to the *Jumma*, according to modern practice, they become perpetual, and drive the proprietor, who sees no limit to the impositions on his land, to frauds, indolence, or despair . . . . . It is not meant by these regulations to prevent the Zemindar from drawing a larger rent from the constituent parts from the Zemindary than its proportion to the assessment, and render it of more value to himself, if he improves the land it contains. This would be absurd, and defeat the intention of the present plan. It is only meant to fix the quit-rent of Government for every portion of land in all its future sales, or transfer of property, without which neither the actual proprietor nor the purchaser can form a determinate judgment of its value”. “Assuming the sum total unalterably fixed, inequalities in an assessment so formed may be considered as inconsiderable, and not to be remedied by the expedient of a *hustabood*.” <sup>15</sup> “The revenue actually paid for three years past will be sufficient for framing the general assessment of the provinces.”

14. Mill (*Op. cit.*, vol. iv, p. 405) points out that “taxes may be in the highest degree certain and yet liable to be increased at the will of the legislature . . . . By the common reasonings to prove the advantages of certainty in taxes, Mr. Francis, therefore, proved nothing at all against the power of increasing them. The sacred duty of keeping taxation in general within the narrowest possible limits, rest upon equally strong, but very different grounds.

15. Francis objects to *hustabood* on the ground :—

- (i) “Since we already know what the country will pay, a *hustabood* can only serve to alarm the zemindars and ryots.”
- (ii) “A *hustabood* ought to be an actual valuation of all the rents drawn from the lands; but, by the failure of some tenants, the entire amount of it is seldom collected. If accurate therefore, it is too much to draw from the districts. Hitherto, where a discovery of the whole produce has been made, it has only served to awaken the cupidity of Government, and to lead them into errors in settling their rents”.

Francis thus advocates a fixed settlement, and that with the zemindar, whom, "without much concern about the production of proof,"<sup>16</sup> he asserts to be the lawful owner of the soil. "The Company," he contends, "had conceived an early, but erroneous, opinion that the governing power was proprietor of the soil; consequently that in the management of their territorial acquisitions, they ought not to content themselves with a fixed tribute as Government, since they had a right to ingross the entire produce as landlord". In a later minute (December, 1776), in order to show that his opposition to Hastings will admit of no compromise, he contends that it is with him an essential point that "the lands are not the property of the East India Company, but of the zemindars and other classes of natives, who owe nothing to Government, but a fixed portion of the new produce" and challenges the Governor to say if he takes "his departure from the same principles that I do."<sup>17</sup> He declares that on this subject he is "not open to conviction," and, if perchance the Company should declare itself of a contrary judgment, then it would be his immediate duty to advise the Company [cccii] "to dispossess themselves in favour of the zamindars," for "under the direct management of Government, whether by farmers or agents, the lands must fall to decay."

A discussion of the view so uncompromisingly set forth by Francis is, as Hastings saw, not really essential to the elucidation of the subject under debate. Even let it be conceded that the zamindar was proprietor of the soil, the Government was equally, by immemorial custom, the owner of a portion, and that not a fixed and invariable one, of the grain on the cultivators' harvest floor. If the land was the zamindar's property, the share of the harvest was also the Government's property, and the question at issue was how the Government might best secure, not a tribute imposed on a conquered people, but its land revenue. The effect of Francis' repeated assertions was to bring into prominence in the discussions of the next fifteen years a question as to the ownership of land which was in strict logic irrelevant. The discussion, so far as it led to an investigation of facts, was of the greatest historical value; but it can hardly be denied that in proportion as public opinion came to favour the view to which Francis had committed himself, one important qualification of the zamindar's claims came to be ignored. It would have been well if Hastings' words in reply to Francis had been kept in the foreground. "I shall not here attempt to account for the distinctions of property as they are understood in this country. It is sufficient for me to observe that, while the ryot pays his rent, the zamindar has no right to dispossess him; nor can the zamindar, by any legal right, exact a higher rent from him than his pottah prescribes".

It has already been made clear that Hastings fully recognised the importance of forming the settlements, wherever possible with the zamindars. On that point nothing can be clearer than the statements contained in his letter of 3rd November, 1772. In

16. Mill : *Op. cit.*, vol. iv. p. 4.

17. Of Hastings' opinions, Francis writes : "In comparing his opinions delivered at different periods and on different occasions, I see declarations on both sides, which hold me in suspense, and which can only be decided now by a plain negative or affirmative".

the plan, drawn up by him in conjunction with Richard Barwell, he had gone further, and recommended a fixed settlement for a life or two joint-lives. Hastings no doubt had hoped that, when his plan had been considered, Francis would find his object practically secured, while only a few minor points as to the means to the end would be left open for further debate. Francis, however, had entered into the controversy, with the intention of using his arguments for a wider purpose than the determination of a question of temporary politics. The nature of his pre-occupation is made manifest in the introduction he appended to the printed volume of minutes. His attack on the Governor's revenue administration was part and parcel of an indictment of the whole of the Company's dealings with the people of Bengal, and the publication of his papers, when he had ceased to be a paid servant under the Directors and was looking for the favours of the Ministry, was intended to show "that the natives of these kingdoms, which we call our territorial acquisitions, had laws, and rights, and property, which were respected and secure under the dominion of Mohamedans, but which, under a British Government, have neither been regarded, nor understood". His purpose is to show that [ccciij] the zamindars, whom he represents as the landed gentry of Bengal, were being crushed out of existence by a Government animated by a relentless desire, "to annihilate that rank of men, in whom the inheritance and property of the lands of Bengal are vested, in order to transfer to the ruling power the produce of their estates, leaving nothing to the owners but a competent subsistence"—a picture of Hastings' policy well calculated to awaken the horror of the Whig party in England! The Hastings-Barwell plan, with its partial adoption of the principle of fixed settlements and its declared favour towards the zamindars, therefore, could not satisfy the grand-arraigner. To compromise would be to ruin the great indictment. These men had brought the wise and benevolent institutions of the Mughal to ruin: it was too late for them to come forward now with measures of repentance. The aim of the published minutes is to show that the position of the zamindar as land-owner had been the saving grace of the Mughal Empire, which if despotic *in modo* had also been the milk of human kindness itself *in re*, and that from rulers who would not recognise in the zamindars the improving landlords of an ideal English type nothing could be expected, but the absolute ruin of the land entrusted to their government.

From the first principles of the settlement proposed by Francis, we now turn to consider the details of his plan. Francis regards it as probable that "in the present distressed and discouraged state of the zamindars, several of them may incur the penalty of losing their lands," either from incapacity, from doubts of the Government, and in many cases from "downright obstinacy and wilful attachment to their prejudices and propensity to fraud." It should, therefore, be made an express condition in the *kabuliyats* that the zamindari, or parts of it, would, in cases of necessity, be sold to make up for arrears of revenue. "A transfer of landed property to monied people, who are able to make improvements, will be in some degree advantageous to the Government, and the country. But, whoever knows the value set by the zamindars of Bengal on their inherited property, and the disputes which they maintain for years with the utmost acrimony and perseverance for the smallest portion of their land, even its present racked



and discredited tenure, will be convinced that, when they see this regulation put in force against them without delay or indulgence, they will be raised from their present supine and hopeless state, to exert every endeavour for the preservation and improvement of their estates, now rendered of equal value." And, as many of the zamindars may be incapable of managing their lands, they should be in every such case constrained to appoint a diwan, who, although accountable for his stewardship to his master, would be answerable for the payment of the revenue to Government, and, therefore, ought not, during the first four or five years after the settlement, to be dismissed without the authority of the Government. Such officers should not be allowed to have vested interests in the estates under their management, nor to purchase at their sale.

As to the desirability of sub-dividing the larger zamindaris, and preserving the smaller ones intact, Francis is in agreement with [ccciv] Hastings : he, therefore, professes that "a new law of inheritance should be established, by which the great zamindari should be divided equally among all the sons, and the small ones descend to the eldest, on condition of supporting the younger children. The gradual operation of this rule might be continued until the larger zamindari were reduced to a revenue of two lacs, each to Government." It remains for consideration whether the existing Hindu customs of adopting an heir ("generally that of the family Brahmin,") where succession by blood failed, should not be abolished in order to facilitate the process of reducing the larger zamindari on their escheating to Government. Francis proposes the institution of a Court of Wards<sup>18</sup> "for the care of estates, of which the incumbents are minors, idiots or females, and to have care of the education of minors, now usually committed to servants or relations, who have an obvious interest in bringing up the children in ignorance or stupidity."

Francis also professes to be in agreement with the Governor-General on the subject of the revival of the zamindar's police jurisdiction.

In regard to the protection of the ryots, Francis inclined to a system of *laissez aller, laissez faire*. He held that it was the natural interest of the zamindar to conciliate the cultivators. "I have heard it asserted," he writes, "that formerly, when a ryot quitted any zemindar's lands, he (the zemindar) followed him, and used every motive of persuasion to prevail on him to return ; and that the zemindars were accustomed to bribe away each other's tenants." "The amount of rent to be paid per *bega*, must be settled between the zemindar and his tenant. Government can never descend to the ryots so as to fix any general assessment upon them, because the rates of land depend on a number of precarious circumstances." In a later minute (5th Nov., 1776) Francis takes the Governor-General and Mr. Barwell to task for having proposed "to secure to the ryots the perpetual and undistributed possession of their lands." "The State" Francis retorts "does not consist of nothing but the ruler and the ryot ; nor is it true that the

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18. On 15th July, 1791, the Governor-General and Council passed rules for the establishment of a Court of Wards for disqualified landholders and their estates. Regulation No. X of 1793 re-enacted the resolutions of 1791, with certain modifications.

ryot is proprietor of the land. It is not even necessary that he should be so, either for his own benefit or that of Government. The scheme of every regular Government requires that the few should be supported by the labour of the many, who receive their retribution in the peace, and security, which accompanies just authority and regular subordination." If the zamindars and ryots "are left to themselves, they will come to an agreement in which each party will find his advantage. The pottah is the evidence and security of this voluntary agreement."

Here once again the question "Is the ryot the owner of his holding" is irrelevant. If the zamindar had the right to manage his lands ; the ryot on the other hand had a right of occupancy of which Francis takes [cccv] absolutely no account.<sup>19</sup> In strict law it may have been that the *khudkasht ryot* had no exact legal right of selling his occupancy, but in custom he usually could sell it ; and, provided he paid his dues, the zamindar could not oust him from his holding. The consequences of Lord Cornwallis' Permanent Settlement in its failure to protect the ryot afford the best answer to Francis' plea for non-intervention on the part of Government. To the *a priori* argument from presumed mutual interests, Hastings replies : "This would be a just conclusion, if the zamindars were all capable of distinguishing what was for their own advantage. But it is a fact, which will with difficulty obtain credit in England, though the notoriety will justify me in asserting it here, that much the greater part of the zamindars, both of Bengal and Bahar, are incapable of judging or acting for themselves,<sup>20</sup> being either minors, or men of

19. "The tenant-proprietor and even the non-occupancy ryot, erects his own dwelling-house, finds his own materials, put up his slender fences, cuts the channel to conduct superfluous water from his own plot to his neighbour's, maintains the small embankments of earth that serve for communication over the plains as well as for boundaries of holdings, expends time and money on higher and more remunerative species of produce, and in short makes the most of his land without advice, direction or hindrance from the superior landlord. These are distinct and irrefragable proofs of a permanent interest in the land, and yet they are perfectly compatible with the existence of rights and privileges of others. It has been said in a previous part of this memoir that the ryot was expected to notify to his superior any sale or transfer of his own interest. But that duty, though admitted in theory, was frequently disregarded in practice. It is absolutely certain that the jot or jamma of a ryot had a market value of its own. It was often put up to public auction in satisfaction of a decree of Court, and was bid for and bought by purchasers without the least reference to the zamindar, and almost as often, holdings changed hands by private agreement. Sometimes a ryot parted with his holding and was reinstated as a mere cultivator. Sometimes he conveyed it to his own zamindar, and sometimes again the zamindar was in the habit of buying holdings situated within the estate of a neighbour and a rival, for purposes of intimidation, annoyance, and revenge. In other cases the ryots' holdings have been purchased openly and fairly, and with a perfectly lawful object, by the zamindar himself. If the zamindar had no spare land of a requisite class and wished for a small plot on which to lay out a garden, build a temple, or excavate a tank, he was forced to bargain with his own ryot to cede land for the purpose. He would not be supported by law, custom, or public opinion in forcibly demanding a cession, of the ryot's land without compensation or equivalent". Seton-Karr : *Cornwallis* ("Rulers of India"), pp. 57-58.

20. This statement was confirmed by Sir John Shore, Minute of June, 1789. *Fifth Report*, 1812, p. 186.

weak understanding, or absolute idiots. This circumstance, and the consequent oppressions, which are exercised by those who act for them, without any interest in the prosperity of the zamindary, render it necessary to provide for the security of the ryots by checks or regulation. It is to be observed also that there are two kinds of ryots. The more valuable are those who reside in one fixed spot, where they have built for themselves substantial houses, or derived them from their fathers. These men will suffer much before they abandon their habitations, and therefore, are made to suffer much ; but when once forced to quit them they become vagrant ryots. The vagrant ryots, as Mr. Francis observes,<sup>21</sup> have it in their power to make their own terms with the zemindars. They take land at an under-rent, hold it for one season ; the zemindar increases their rent, or exacts more from them [cccvi] than their agreement, and the ryots either desert, or, if they continue they hold their land at a rent lower than the established rent of the country. Thus the ancient and industrious tenants are obliged to submit to undue exactions, while the vagrant ryots enjoy lands at half-prices, which operate as an encouragement to desertion, and to depopulation of the country."

Francis proposes "to get rid of the present confused pottahs and Jumwabundy" and suggests that the zamindars should, within a stated time, grant new pottahs, either for the duration of the zemindars' own fixed rents, or for a term of years. The new pottahs, expressed in the simplest terms possible, and "without a single *aboab* or *muthote*,"<sup>22</sup> should cite the amount per bigha per each bigha cultivated, varying only according to the article of produce or quantity of the soil. The ryot should also receive from the zamindar, after payment of the annual dues, a signed account, with a release at the foot. To release the ryot of the *batta* or exchange on his coins, he recommends the establishment of one general silver coin, which would circulate at par.

As it might be expected that the increase of the lands in value would lead the zamindars to resume lands alienated in charity, etc., it would be important to set a limit to the time in which lands, for which no *patta* could be produced, might be quietly resumed, and in future the zamindars should be restrained from making grants in charity of longer duration than their own life, and no act of the kind should be held valid when made by a zamindar in arrears to Government.

In regard to loans of money to the zamindars, Francis writes : "Government ought to give some demonstration of their intention to see justice done to those who lend their money. The rate of interest should be fixed, and the mode of security determined, whether by mortgage or otherwise." He then comes to broach the subject of the executive machinery of the revenue administration. It is interesting to notice what he has to say on the subject of the Provincial Councils, for Hastings' action in abolishing these bodies was severely censured by some of the witnesses at his Impeachment. Of the Provincial Councils Francis writes :

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21. Hastings here gives his opponent the benefit of supposing him to be well acquainted with a very necessary distinction.

22. *Mathaut*.

"The institution was fundamentally wrong. There should be but one deliberative council in the State. The powers delegated by that authority, should be purely ministerial. It seems contrary to all principle to unite execution with debate. It looks like forcing two powers, moving on principles diametrically opposite in their nature, to keep pace with each other. A Government so constituted will neither deliberate nor dispatch. Setting aside an obvious slowness, of proceeding, tedious disputes, and voluminous consultations, one great and fatal objection to provincial councils is generally felt and acknowledged by themselves. Their local situation makes [cccvii] them unable, from their own knowledge to judge of distant districts, or to hear complaints, or to yield timely redress or in short to enter into detail of Government."

To carry his plan into execution, Francis recommended the reappointment of supervisors. This he thought might perhaps prove to be a measure of temporary urgency only and it would perhaps be found that, when the zamindars had secured their position and the ryots had received their pattahs, the former might be trusted to pay their rents direct into the Khalsa treasury, and the Supervisors could then be recalled. These district officers should be selected, with consideration to their linguistic and local knowledge, from "the most discreet and able servants," and they should be allowed a commission on the net amount of their collections as well as allowances for their expenses. "I will not pretend to say what their avowed emoluments ought to be ; but I am sure that no government will be served honestly, which does not reward its servants liberally."<sup>23</sup> When the supervisors were no longer necessary as Revenue collectors, some of them "on the plan of the old fouzedar, may be fixed at convenient stations, merely to preserve the peace and subjection of the country ; and this would be essentially necessary in case of a war." The superintendence of the local civil courts would be an important branch of the supervisor's activities, and as Francis understood that the Company's servants at present retained for the courts of Diwani Adalat were but mere clerks, he held that "the greater part of them may be struck off." The supervisors, moreover, should be authorised to prevent "monopoly or undue influence in trade, whether by the Company's agents or others, and to protect and encourage the merchants." As the adoption of Francis' plan as a whole would obviate the necessity of forming hustaboods, collecting records, etc., the supervisor's work would be much lightened, and therefore the establishment of servants in the districts need be only small. The divisions of the country might remain "the same as in the former collectorships, except that Dacca is too large, contains many small zemindaries, and ought to make three divisions at least." The only accounts which, under this system, would be necessary for remission to the Treasury would be statements of each zemindar's payments and arrears, and a jama kharch, or account of receipts and disbursements. To bring this new system into operation, the Provincial Councils, before their dissolution would have to prepare and make over to the Supervisors—

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23. Writing in 1781 (April 28) Hastings speaks of fixed salaries as "the scanty pay for dead and unprofitable labour". Gleig : *Memoirs of Warren Hastings*, vol. ii. pp. 375-76.

1. An exact register of all landed properties, digested under the general heads of zamindaris, talukdaris, etc., with the parganahs comprised in each ;
2. A table of the receipts during the last three years.
3. Account of the character, family, etc., of each zamindar.

[cccviii] The salt and opium revenue should in future be "by way of duty only." The existing contracts for salt had, in Francis' opinion, led to the depopulation of the salt districts, and what had been gained by a monopoly, itself contrary to the Company's instructions (Nov. 20, 1767), was lost by the injury done to agriculture. Bihar might be expected to revive after its "universal poverty and depopulation" if the opium trade were thrown open and some alteration made in the present mode of providing the Company's salt-petre. Restrictions in trade in favour of officers in charge of the collections or in public authority, should be formally and finally annulled.

Finally, as to outstanding arrears of revenue. At the expense of favouring those who have no claim to indulgence, it would be necessary to remit all arrears which cannot be collected within a certain period, for otherwise the country, which "has already paid much more upon the whole than should have been demanded from it," would not recover. This intention, however, would have to be kept secret until the fitting moment for its execution.

In one place Francis observes that "in every other country the collection to a land tax is one of the simplest and easiest operations of government." In his published work he loves to adorn his abstract arguments on Indian matters by quotations from the then fashionable doctrinaire French authors. The idea that the experience of "every other country" could be realized in Bengal must have been seductive to a member of Government who, after but a little more than a residence of eighteen months in Bengal, had come forward to simplify the painfully intricate native customs of land revenue and land tenure. Francis' scheme, while it pretends to be a return to the principles of the Mughal empire, is in reality parallel with the methods of those early English administrators in Ireland, who being so familiar with land-holding *by contract* in their own land, simply could not recognise in Ireland the existence of land-holding *by status*. If Francis had had a legal education, he would have known that even in English legal theory there is no such thing as absolute ownership in land—but only the *dominium utile* or "estate in land," and would have qualified his expressions in regard to the "propriatorship asserted for the zamindar." Ignorant of the history of land-holding in India, he approached his work with a mind influenced by the old feudal maxim *nulle terre sans seigneur*, and so influenced, he supposed that for every plot of land, large or small, in Bengal, there must be an owner, and that every subordinate cultivator on the soil must be there by virtue of a contract, which, he held, should, according to the experience of other countries, be determined by the letting value of the land in the open market. The zamindar, he maintained, was the owner and the ryots' right and liberty were to take or reject the terms which the zamindar offered. Claiming to be pleading on behalf of these native laws and customs, which obtuse and venal English folk had outraged, Francis in fact popularised in England, if not in

Bengal, a view of land-holding in India which was hopelessly at contradiction with the [cccix] facts of history. The lucidity of his writings and their controversial adroitness led to his views being widely accepted, and their triumph was the more easy because the unfounded assumptions of his plan were the very assumptions which, unless warned, an Englishman would bring to India with him, enthroned in his mind as "common-sense".

In 1781 the Provincial Councils were abolished, and the collectors returned to the districts. Thus two steps were taken towards the realisation of Francis' plan. Already in 1770 the plan of a fixed settlement had been put forward in Dow's *History of Indostan*, and Francis' *Minutes* served to give prominence to the scheme.<sup>24</sup> In 1785 the Court of Directors announced their intention to "arrange a final system", and in the year following they ordered an assessment to be fixed for ten years, and after that time, if approved of, declared permanent. The debates of 1775, therefore, were not unfruitful in good or evil: but, although Francis' advocacy of a fixed settlement on the basis of the recognition of the zamindars as land owners was thus to triumph, his generous idea of making the actual requirements of Government a bed of Procrustes on which to measure out the land revenue was not accepted.

The opposition of Francis to the Governor-General, which taken as a whole menaced the very life of the English Empire in India, had good results wherever it was genuinely reasonable. Just as the Impeachment of Warren Hastings may be regarded as reflecting shame on its originators and the Managers, while it yet performed a useful purpose in putting to rebuke all that had merited censure in the past, so Francis' indictment of past errors was calculated to secure a greater watchfulness and efficiency in the future. What in reality stood up for trial and condemnation at the Impeachment of Warren Hastings was a system of irresponsibility for the welfare of the peoples of Bengal, and not the man who had done so much to substitute for that system the beginnings of a genuinely paternal government. What is really struck at in Francis' minutes is the old method the Court of Directors had again and again sought to enforce on its servants in Bengal—the method of employing native hands to fill English treasuries, and laying the blame of rack-renting on the servants of a more or less imaginary native administration. Perhaps, from the point of view of the historian who reads Francis' book in the light afforded by events subsequent to its publication, the historical importance of the book

24. See also "H. Patailo": *An Essay upon the Cultivation of the Lands, and Improvement of the Revenues of Bengal*. London, 1772. It has been suggested that Francis' minutes on revenue matters represent the picking of the brains of John Shore, the future Lord Teignmouth, who in 1776 was a young rising civilian. Shore writes in his early days: "Mr. Francis is my friend, and will, I believe, give me proofs of it, whenever time shall put it in his power". Capt. J. Price relates that Hastings, having guessed at the dependance of Francis on Shore, sent the latter on a journey, and that Francis, during the absence of his young protege, absented himself from Council on the plea of ill-health. See *Some Observations and Remarks on a late Publication entitled 'Travels in Europe, Asia & Africa.'* London, 1732. See also an article on Lord Teignmouth by Sir John Kaye. *Calcutta Review*, May, 1844.

lies in the fact, not merely that it popularised certain views about fixed revenues and [cccx] zamindari ownership, but that it carried the judgment on the Company's internal administration from the Court of Directors to the bar of public opinion in England, and, in pleading that the assessment of the land revenue should be regulated by the needs of Government, it condemned the old system of appropriating the revenue for the provision of the Company's commercial investments.

## CHAPTER XVI.

### THE COMMISSION OF 1776

[cccxi] Towards the end of 1776, the Governor-General stated his proposals for the formation of the new settlement, Colonel Monson's death in September, 1776, had enabled the Governor-General to secure the adoption of his measures by the use of his casting vote. His proposals embraced the institution of a Commission of inquiry consisting of two covenanted servants and a native Diwan, assisted by officers selected either from the Khalsa or specially chosen for the business of the Commission. All orders in connection with the inquiry were to be written in the name of the Governor-General, who was to exercise an immediate control over the proceedings. The constitution of this body, therefore, lent itself readily to misconstruction by Hastings' opponents, who at once cried out that the new Commission, dominated by the Governor-General, was designed to exclude the Council from their constitutional right of directing the revenue administration.

This Commission was not only to make elaborate inquiries into the value of the lands and the farmers' accounts, but was to give a very special attention to the protection of the ryots—"to secure to the ryots the perpetual and undisturbed possession of their lands,<sup>1</sup> and to guard them against arbitrary exactions". "This" Hastings went on to aver, "is not to be done by proclamations and edicts, nor by indulgences to the zemindars. The former will not be obeyed unless enforced by regulations so framed as to produce their own effect without requiring the hand of Government to interpose its support; and the latter, though it may seed the luxury of the zemindars, or the rapacity of the farmers, will prove no relief to the cultivator, whose welfare ought to be the immediate care of Government". In regard to the attempt to define the ryots' dues by *pattahs*, Hastings notes that what had been said by way of reproach on the score of the Committee of Circuit would apply with equal justice to the settlement of Burdwan formed by direction of the late majority in the present Government. Despite the peremptory orders of Government, not a single *pattah* had been granted in the Burdwan district, and without Governmental intervention,<sup>2</sup> the *pattahs* would never be issued. "Future effects may

1. Hastings is here using terms in a loose sense, and without reference to the strict law of property. He refers to the Khudkasht ryots' right of occupancy not to any absolute property in the land.

2. In regard to Burdwan, Francis retorts: "The time limited for granting such *pattahs* is not elapsed, and I do not yet despair of some degree of success. For the rest, I shall content myself with remarking, that the measures of a divided Council may be defeated by difficulties external to them, and that a failure proves nothing but that the entire strength and influence of Government did not accompany the execution. This, I fear, may happen in other instances, as long as the merits and success of one part of the administration can be interpreted as a reproach or viewed with dissatisfaction by the other". *Ibid.* p. 130.



[cccxi] be concluded from simple causes without the spirit of prophecy. It is the interest of the zemindar to exact the greatest rent he can from the ryots, and it is as much against his interest to fix the deeds by which the ryots hold their lands and pay their rents to certain bounds and defences against his own authority".

From the previous chapter it will have been seen that Francis had committed himself to a number of fixed principles, and his opposition to this new measure must not be assigned to a spirit of mere personal opposition. He had already laid it down as a doctrine of political economy that "the Government cannot descend to the ryot"—the relation of the zamindar to the ryot must be left to the law of economic competition to settle. The proposed inquiry into the value of the lands led him to ask what end would a valuation serve? <sup>3</sup> He had already stated his opinion that the amount of revenue to be gathered should be in accordance with the actual needs of Government, and deprecated an assessment which would yield more than a safe and moderate surplus to cover emergencies. Why make these inquiries, if it be not their object "to exact from the people the utmost they can possibly pay?" I collect the avowed or implied principles of the Governor's plan from the enquiries he intends to make. The nature of the information he proposes to obtain suggests to me the only purpose to which it can be applied".

So Francis wrote in his minute of November the 8th, 1776. Surely, he argues, if it be an object to discover the utmost the country can yield in revenue, this must have been achieved by the Committee of Circuit, and has not the Governor-General and Mr. Barwell informed the Board on April 22, 1775 "the ascertaining of the values of the several districts has been sufficiently accomplished?" And from whom is all this intricate and bewildering information now to be obtained? From the farmers? Have not they been incessantly crying out for remissions, and if they produce any accounts at all, is it not certain that the accounts will have been deliberately falsified? From the Zamindars? Is it not the fact that the concealment of their property is the only resource our oppression has left them? These are the last people from whom we have the right to expect assistance. From the ryots? Why, the Governor-General and Mr. Barwell have themselves borne witness to the ryots' distrust of Government. It is the ryot's interest to exaggerate his distress, and "sink the amount of his actual payments, lest what he is able to pay in future should be determined by what he has paid heretofore". And supposing all the required information to come to hand, how can its examination and simplification be completed before April next? "The complex idea, which the whole operation gives me is a union of confusion and impossibility, through which I am confident no human penetration can find its way". Such a valuation could only be true at one given point of time: in Bengal, the incidence of floods, [cccxii] etc., soon alters the validity of a valuation. We have already what we need to know. "We know the

3. Soon after they arrived in Bengal, Francis and the majority had stopped an enquiry into the land tenures of the Dacca Zamindars by the Provincial Council.

amount of our expences, and we know in general what the country can pay. We also know that in general it has been much over-rated. Our Provincial Councils are able to inform us what particular districts have been favoured or oppressed, in what parts the collections have been realized without difficulty, and what districts indispensably require relief. Our constant experience tells us that, upon the whole, there ought to be a remission." Here there is sufficient material for a new settlement, which if not perfectly accurate or equal, would only be subject to merely trifling inequalities which would soon "level of themselves." This material would suffice for a fixed jumma, and "without a fixed jumma I affirm that no other measures can save the country." In support of these points, Francis evokes the authority of Sir J. Stewart, Blackstone, Smith, Montesquieu, and Mirabeau.

Having made his objection to the inquiry into the value of the lands, Francis goes on to deal with the proposed protection of the ryot. "This language," he says contemptuously, "is popular, and has often been used without any apparent benefit to the ryot, to countenance and give colour to acts of violence and injustice against the Zemindars, and other superior ranks of natives." Let charity begin at home. A Government "which claims and exercises a right of arbitrary taxation, and whose professed object is to exact the greatest possible revenue from the country, cannot afford to preach tenderness for the cultivator." He goes on to plead for a policy of *laissez faire, laissez passer*. Zamindar and ryot, if left to themselves, will come to an agreement, in which each party will find his advantage. The Governor's plan resembles "an attempt to annihilate all intermediate profits between the ryot and Government."

On November the 12th following, the Governor-General proposed a fixed establishment (*i.e.*, salaries) for the members of the Commission. The total sum was to amount to Rs. 4,800, or more, per mensem. The Governor nominated David Anderson and George Bogle (the celebrated Tibetan traveller) as Commissioners, on a monthly salary of 1,200 each : Henry Vansittart he nominated to be Persian translator, and Gunga Govind Sing, to whom Burke has attached so sinister a reputation, as peshkar.<sup>4</sup> On the same day Barwell handed in a minute of a conciliatory nature, in which he stated that "the grand object, in which all our sentiments unite, and to the necessity of which we all subscribe is a solid establishment of the revenues upon an abated taxation." He claimed that on three important points the Governor-General and Mr. Francis are agreed :—

1. That a *fixed* valuation should take place in the revenues.
2. Some diminution should be made.
3. "And lastly we we propose that this important settlement should be permanent."

[cccxiv] But, he argued, it would be necessary to convince the Company that its interests have not been neglected, to cut off from a future administration any opportunity

4. Pesh=before a superior : kar=one who works. A "deputy manager".

of censuring the present on the ground of having acted on obviously inadequate information, and to convince the Indian mind of the really equitable nature of the proposed measures. With all due deference to Mr. Francis' polished learning, he would suggest that what Mr. Hastings now proposed was a measure akin to the scheme projected by the great Duc de Sully in France. Barwell then goes on to defend the proposed measure for the protection of the ryots. "In this country," he urges, "where all territorial property centres ultimately in Government, and where the Zemindar holds his lands by a pottah, the same tenure by which his under-tenant holds them again from him, I think the public eye should have a watch upon these, as well as the former; and that it would tend as much to the interest of the State as to the satisfaction of the greater number of the inhabitants, the all pottahs should be equally well defined, and be guaranteed from all violation with an equal authority. Personal property ought to be held as sacred in the pittance of the poor as in the possessions of the rich; and, as I have said 'the welfare of the husbandman and manufacturer is the general ground-work of a well regulated state,' it follows that I deem it to be the first object of this government to fence and secure the ryots from the arbitrary power of their zemindars; otherwise no one regulation we may resolve or can, in its immediate or remote consequences, answer the beneficent design for which it was formed. The wealth of every country is to be found in the wealth of the commonalty alone, especially in this country, where the particular manners and superstitions of the higher class either influence them to secrete their acquisitions, to dissipate it in religious endowments out of the provinces, or in the ostentatious folly of giving daily food and subsistence to a number of idle dependants, who by such means are totally separated from the bulk of the people, and who must have otherwise been employed in the manufactures and cultivation of the country. I acknowledge the task is extremely difficult and arduous; but, unless the rights of the common people are well defined and secured, I am well persuaded all our speculations will only tend to enrich the zemindars, and either lock up a large portion of the current specie, or divert it to most pernicious purposes, and precipitate that very decay we are endeavouring to guard against."

On the same day (November the 12th), Hastings made his reply to Francis' minute of November 5th. "More used to the practice of business than speculation," Hastings asks to be excused the discussion of those abstract and general principles which are supposed to be applicable to *any* country, and to apply himself to the actual conditions of Bengal. The doctrinaire opinions cited by Francis might perhaps be justly applied to countries in which the land tax bears but a small proportion to the produce of the lands, but in Bengal where the land revenue may amount to nine-tenths of the produce, these abstract [cccxv] principles do not apply.<sup>5</sup> Francis has contended that the inconveniences of an unequal assessment would be so trifling that they might well be neglected. Now suppose in England the rent claimed by Government is one-fifth part of the produce,

5. Francis in reply contends that distinctions drawn between England and Bengal are made to give an arbitrary government the right to exercise discretionary powers of an oppressive kind.

the proprietor would have four-fifths (or 16/- in the pound) left for himself. If, owing to an inequality of the assessment, in some places one-eighth part were taken by Government the proprietor would have left seven-eighths, or seventeen shillings and sixpence. But in Bengal "nine-tenths of the net produce or eighteen shillings in the pound, are generally supposed to belong to Government, and the remaining tenth to be the property of the land-holder. A Zamindar, whose land produces Rs. 1,00,000 pays Rs. 90,000 to Government, and has a right to the remaining Rs. 10,000. Should this land be over-rated at Rs. 1,05,000, or only one-twentieth part above its value, then, instead of Rs. 10,000, he would receive only Rs. 5,500, or a little more than half his just income. Another, inheriting a zamindary of equal value, reputed to be worth Rs. 95,000, or one-twentieth part under-rated, will, instead of Rs. 10,000, enjoy an income of Rs. 14,500. Thus the inaccuracy of a twentieth part in the valuation, more or less, will render the estate of one zamindar almost three times more profitable to him than that of another, whose lands are of equal value". Hastings then gives instances of the evil arising from the unequal assessment of lands. <sup>6</sup> He next describes "the ancient Tumar or Tuckseem, [taksim] or distributions of the land revenue" as a "mere object of curiosity" in a passage which has already been quoted. He goes on to deal with Francis' second position, viz. the inconvenience of an unequal assessment is not capable of remedy, because it is impossible to obtain an accurate valuation of the lands. On the contrary, Hastings maintains "the present juncture is peculiarly favourable to the attempt, and that the work is not undertaken without a fair prospect of success". It would be far too tedious to attempt to form a valuation of the lands by measurement or survey, but the accounts of the land revenue will supply the information required. <sup>7</sup> As it is impossible to falsify the sum total of a parganah without falsifying all the parts of it, [cccxvi] it would not be necessary to examine the accounts of every ryot and village. It is possible that some of the petty zamindars may succeed in falsifying their accounts, but this is not at all likely to prove the case with the greater ones. "As the farmers are bound by their original engagements to deliver to Government an account of their collections; as the custom of the country requires that they should give up the Mofussil accounts at the expiration of their lease; and as they have little interests to withhold them, since they

6. The sale of zamindaris in the Dacca district, the proposed sale of the Raja of Nadia's lands, the ruin of wealthy farmers in Bshar, and the recent sale of taluks by the Provincial Council of Murshidabad.

7. Hastings writes: "The accounts of the revenue in Bengal are kept with a regularity and precision unknown in Europe. They are drawn out, I understand, nearly on one uniform plan, and are balanced and adjusted at fixed periods. A separate account (or *Karcha*) is kept for every ryot or tenant, in which the different articles which compose his rent for one year are stated on the one side, and the payments which he makes are entered on the other. The whole of these accounts are afterwards annually digested into abstracts, which contain a particular state (ment) of the rent, the receipts, and arrears of each village. The abstracts of all the villages form the pergunnah accounts; and the general state (ment) of the zemindary, or capital division, is composed of the aggregate of the accounts of the pergunnahs. All these different accounts are publicly kept in their respective cutcherries. It is by them that the rents are collected, and they are always delivered over to such person, as has the charge of collecting them, whether zemindar, sezawal, wadadar, or farmer".

must yield up their farms at the end of the year, the present juncture is more favourable for procuring a true valuation, or *hustabood*, of Bengal, than any other. It would be almost impossible to form it afterwards, in the event of the lands being restored to the zamindars, and thus one of the great objects of the five years' settlement, the discovery of a rule for an equal assessment, would be lost".

From the defence of his own scheme, Hastings turns to carry war into the enemies' country, and to criticise Francis' plan of forming a settlement on the basis of the actual receipts of the past three years, corrected by the opinions of the Provincial Councils as to the lands which had been either over or under-rated. The plan has on its face the merit of extreme simplicity, but it is in fact fatally inadequate. It overlooks all adventitious circumstances, inundations, oppressive acts, the minority of zamindars, etc., etc., which would reduce the collections without impairing the value of the lands. A settlement formed on such a basis would be a concession to the unworthy, an encouragement for those who had made a fine art of keeping it in arrear, and a punishment for those who had paid their dues with punctuality and who would therefore be fully assessed.

Hastings then proceeds to give an illustration of the inadequacy of an assessment based on three years' receipts of revenue. In the spring of 1776 several talukdars of old standing in the neighbourhood of Murshidabad had fallen into arrears, and their lands had been sold to make good the deficiency. The Board had made inquiry from the Provincial Council to know whether the arrears had been due to the over-rating of the lands, or if the failure was the result of neglect or mismanagement on the part of the talukdars. To this inquiry the Council replied: "How far these balances have been owing to the neglect and mismanagement of the proprietors, or to the lands having been much over-rated, it is not in our power to determine; but, from the collections having been regularly kept up for three years and falling so much in arrears in the fourth, it affords room for supposing that the complaints of the zemindars of the drought of the season were not without some foundation, and this might be the cause of that year's deficiency."

This little anecdote gave Francis the opportunity for some hard hitting. Why did the Governor-General sanction so severe a measure as the sale of the talukdars' lands? Why did he not hunt up those precious *mofussil* accounts of which so much had been said in order to see whether or no there had been any over-rating? Allowing Francis his score, the instance given did bear out Hastings' contention that a three years' review [cccxvii] of actual receipts would be inadequate as the basis of a settlement, and that the inability of the Provincial Council to say whether the estates immediately under their eyes were over-rated or not showed that the test of the Provincial Council's opinion was of little value. "A Provincial Council, of which both the English members and the native officers in point of abilities yield to none in Bengal, are unable to say whether any particular district has been favoured or over-rated. For, if it is not in their power to give an opinion of the under or over-valuation of the rents of an estate in their own neighbourhood,

which had been sold, how can we expect reports concerning the rents of the whole division, which amounts to fifty lakhs of rupees?" And, should it be admitted for argument's sake that the *private* opinions of the members of the Provincial Councils are more reliable than the *public* accounts, even then the concurrence of the zamindar would be necessary in order to establish the new settlement. If we persist in enforcing an unequal assessment, the zamindar, (as was the case in Nadia) will, from fear of losing his zamindari, be constrained to enter into a bargain, the terms of which will in the end ensure his ruin.

On the general subject of a reduction of the revenue, Hastings writes more cautiously than Barwell had done. "If," he writes, "the commands and exigencies of the Company will admit of it, I shall be ready to join in lowering the revenue, but the peculiar necessities of this government will not perhaps allow of a considerable diminution of the rents; and, whatever it may be, it will be felt as a relief only according to the distribution of it, and the manner in which it is proportioned to the state and abilities of those who are to pay it." He concludes this lengthy minute by sweeping aside as irrelevant the constructions Francis had placed on his words about the "perpetual possessions" of the ryots, the supposed design of "destroying the intermediate grades of society," and of "raising the largest possible revenue."

Some of Hastings' arguments Francis attempted to meet by a profession of scepticism in regard to the facts alleged. Hastings had stated that in Bengal nine-tenths of the net produce, or eighteen shillings in the pound are generally *supposed* to belong to Government, and the remaining tenth to be the property of the landholder. As a matter of fact Hastings had not put these proportions forth as a fixed standard for future collections, but only made use of hypothetical figures to elucidate his argument.<sup>8</sup> Francis, following his usual method, ignores the fact that the figures were made use of merely to illustrate a point [cccxviii] and, insisting that the Governor's real intention was to levy a revenue of nine-tenths of the produce, bursts into violent denunciation. "An endeavour," he exclaims, "to appropriate nine-tenths of the net produce of the country is prudently accompanied with an attempt to vilify the persons who are to be divested of their property. A violent and arbitrary reduction of some thousands of noblemen, gentlemen and freeholders (for such ranks there were in Bengal as well as in England) to a competent subsistence, that is, to the level of the peasantry, might perhaps excite some degree of

8. "I do not mean these figures as a fixed standard. I offered them only as a general supposition, to shew the different state of the land-tax in this country and in Europe, and the very different effect which an unequal assessment must produce in each . . . . . It is proved from facts, that the revenue imposed upon some lands does not leave anything to the proprietor, insomuch that estates are frequently sold to pay the land-tax. The proportion of one-tenth was used only to elucidate my arguments. It was formed on the opinions of natives, on my own experience and belief, and on the custom of the neighbouring province of Behar, where the share, which each zemindar is allowed on the produce of the land is invariably fixed at one tenth. This is called his *Malekana*, a term of long usage, and therefore a proof that the rule was neither derived from the practice of the British Government, nor that of the usurpation which immediately preceded it". Hastings' Minute, Nov. 29, 1776.

remorse and compassion in England. The next step is it shew that they are incapable of acting for themselves, or that they deserve no mercy. The policy he attributes to Hastings is an intention to revive Nawab Kasim Ali's system or direct dealings between the Government and the cultivator. That the Mughal had ever taken nine-tenths of the produce as revenue was an idea, to which the former great wealth of the country gave the lie. As to the Governor-General's reference to a "general supposition" that nine-tenths represented the due to Government, "by whom this supposition has been formed I know not, nor on what evidence, except perhaps the practice of the British Government, or that of the usurpation, which immediately preceded it. Such fact is no proof of such right. The Honourable Court of Directors have now in their possession authentic documents, which shew that the assessment fixed by the Moghul Government on these provinces was light and moderate in comparison with ours."

In a minute dated November the 29th, 1776, Hastings addresses himself to the subject of the alleged lightness of the Mughal land-revenue. He argues that it is not sufficient merely to compare the amount of the total revenue received in past years with the amount received at the present day. "The price of coarse rice," he writes, "which forms the principal consumption of the people, was five and a half times cheaper in the time of Sujah Cawn than it is now.<sup>9</sup> If this be allowed a fair standard for estimating the value of [cccix] money, which, being the rule for apportioning the value of property, must reciprocally derive its own value from it, the revenue collected from Bengal in Sujah Cawn's time, being Rs. 1,42,50,000 was equal to Rs. 7,83,75,000 of their present value. But if the dimensions of Bengal, and the state of its government in these different periods

9.

Table shewing the purchasing power of the Rupee.

				At Murshidabad in Sujah Cawn's time.		At Calcutta 1776.	
				Mds.	Srs.	Mds.	Srs.
Rice, fine, called <i>Bansepoot</i> —							
First sort	...	...	...	1	10	0	16
2nd „	...	...	...	1	23	0	18
3rd „	...	...	...	1	35	0	21
Do. coarse, called <i>Doma</i>				4	15	0	32
„ „	<i>Poorbee</i>	...	...	4	25	0	37
„ „	<i>Mansurah</i>	...	...	5	25	1	0
„ „	<i>Kurkashallee</i>	...	...	7	20	1	10
Wheat—							
First sort	...	...	...	3	0	0	32
2nd „	...	„	...	3	30	0	35
Barley	...	...	...	8	0	1	13
Bhoot, a kind of grain for feeding horses	...	...	...	4	35	0	20 to 22
Oil—							
First sort	...	...	...	0	21	0	6½
2nd „	...	...	...	0	24	0	6½
Ghee, boiled butter—							
First sort	...	„	...	0	10½	0	3
2nd „	...	...	...	0	11½	0	4

be compared, the disproportion will be greatly increased ; for many frontier countries have been since added to its dominion, and the zemindars who yielded very different degrees of obedience to Sujah Cawn, are at this time reduced to an equal state of subjection to the government of the Company."

To this argument Francis objects that the value of money, "as the common and universal equivalent of all things alienable," may be raised or lowered in two ways :— (1) a great influx of gold or silver which would alter the nominal but not the real price : (2) heavy and insupportable taxation which compels the producer to raise his prices to enable him to pay his dues. Hastings and Barwell had admitted that the existing high prices were influenced by taxation, for in April, 1775, they had written : "The constant increase of taxes has been an immediate distress to the ryots, and must have ultimately affected the manufacturers and all other ranks of people, by raising the prices of the several articles produced by the labour of the ryots." It may be asserted, therefore, that "an increase in the price of the necessities of life does not necessarily prove a diminution in the value of money or an increase in the quantity of it."

As to the addition of new frontier districts, Francis says : "These, I suppose, are Tipperah, Ramgur, Pacheet, Nagpore, Palamow, and Cooch Beyhar. Until I see some proof produced of a direct improvement of the revenue by these acquisitions, I cannot admit that they justify an increase in the jumma of the provinces. If it were of any moment, I believe it could be easily proved, that at present they do not pay even the expence of their establishments."

Hastings had contended that the *ausil tumari jama*, which Francis identifies with Akbar's assessment, had become an "object of curiosity." "My information," retorts Francis, "obliges me to deny every one of the facts asserted by the Governor-General." The alterations made in the *ausil tumari jama*, he contends, were, until Ali Verdi Khan's time, little more than the changes of names which the deaths of the zamindars necessitated, and until Kasim Khan's time the idea of making a *hustabood*, or actual valuation of the lands was unheard of.<sup>10</sup> As an illustration he avers that, "in the year 1732, when the Governor and Council had in agitation the raising of the rents of their own zemindary of Calcutta, it being rumoured abroad, they received a peremptory *perwannah* from the Soubah forbidding them, in which the Soubah told them that they were presuming to [cccxx] do a thing which he himself had not the power to do ; and that, if they persisted, they would, by the laws of the empire, forfeit their lands." If this fact be authentic,<sup>11</sup> it would mean that under the Mughal law, a zamindar was not entitled to increase the dues of his ryots, and it would cut against Francis' theory that the claims of the zamindar on the ryot might be left to the law of competition to decide. Francis' whole theory of the *ausil tumari jama* is in contradiction to historical facts.

10. Francis quotes Holwell : "Every additional tax on land, above 3 sicca rupees a *bega* per annum is contrary to the standing law of the empire ; which until Aliverdi's usurpation had been held sacred and inviolable".

11. The authority is J. Z. Holwell.



That the Mughal system was, as Hastings asserted, enforced by "stripes and tortures," Francis professes to disbelieve entirely. Excepting the single instance of Murshid Kuli Khan's tyranny, what positive proof, he asks is there of any recourse to severities on the part of the Mahomedan government? The period following Sujah Khan's rule does not come into consideration, as by that time the Mughal government was notoriously on the decline. Scrafton may be quoted as affirming that until the time of Nadir Shah's invasion "there was scarce a better administered Government in the world" than the empire of the Great Mughal.<sup>12</sup> "The flourishing state of the country, before we had any influence over it, is the strongest presumptive proof of the lenity and moderation, with which the people had been treated, notwithstanding the particular severity of Jaffier Cawn's (Murshid Kuli Khan's) government, and the disorders which followed from the death of his successor. The millions, which have since been sent to Europe in every mode, and by every channel, through which wealth could be extracted, could not have existed among a people, whose government collected its revenues by stripes, by indignities, and by tortures even to death."

Francis' reply was made for the benefit of the Directors in England, for the question of the appointment of the Commissioners had already been decided by the Governor-General's casting vote. In the course of time the Court of Directors expressed their disapproval of the Governor-General's action, but their letter of the 4th of July, 1777, reached Bengal long after the Commission had completed its inquiries and presented its report. It is of interest, however, to notice the points of censure stated by the Directors in their letter. After saying that it had been their hope that all the information necessary for the formation of a new settlement might be obtained without alarming the inhabitants by new and unusual methods of procedure, they review, with marked dissatisfaction all the various steps which, during the last seven years had been taken to procure that information—the Supervisors, the two Revenue Councils of 1770 and the Committee of Circuit of 1772. The recent appointment of two junior servants, "to collect and digest materials, which had already undergone the collection, inspection of our servants of all denominations" was a measure that might be allowed [cccxxi] to pass, if further information was really essential, but "we are sorry that the conduct of the majority of the Council on the occasion, has been such as must have our entire disapprobation". The Court had already expressed its disapproval of the conduct of the late administration in delegating separate powers to its President, and yet the Governor-General had taken advantage of his casting vote to create a commission to act in his name and under his control, and from which the Council was excluded. The distinction which he had drawn between preparing materials and issuing orders was not to be allowed. The Governor's right of separate control must for the future be held to be strictly limited to the issue of military orders in the Garrison of Fort William. As for the contention that

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12. Scrafton: *Reflections on the Government of Indostan*. Reprint, 1770, p. 25. Holwell claims that this little book was a print of one of his own mss. lost in the Siege of Calcutta; but Holwell is not a person to be readily believed in a statement of this kind.

the business could not be left to the Provincial Councils because it required uniformity in design and authority in execution, the Governor-General and Council had it in their power to render the proceedings of the Provincial Councils uniform, and the necessary authority might have been delegated to them with safety. If the native officers of the Khalsah were not competent for this work, that was a reason for dismissing them and not for instituting a new office. The *Rai Raian* was the proper channel of such communications as require the interposition of a native expert, and the appointment of Ganga Govind Sing, dismissed from the service by the Calcutta Committee, was objectionable. The idea of deputing natives to hold local inquiries, and thus to oust the members of the Provincial Councils from their jurisdiction was astonishing. The letter ends with declaring "the minutes of General Clavering and Mr. Francis leave us little to add on this disagreeable subject. Their reasons against delegating a separate power of control to the Governor are noted and judicious, and we are happy in declaring that their conduct on the occasion meets with our entire approval."

The Commissioners in their Report with natural modesty decline to enter into the question which Francis had brought into prominence—are the zamindars the owners of the soil; but as Harington remarks, they would have elucidated the problem if they had abstained from calling land revenue "rent". They hold that the ancient mode of assessment was by actual valuation, but that, in course of time, the Mahomedan Government substituted for valuations conjectural estimates, and "this innovation on the part of Government authorized the like practice by the zemindars, and every additional sum exacted from them was levied by accumulated taxes on their vassals and ryots". The consequence of this change had been severely felt in the continued desertion of the land by the cultivators, and increased taxes levied to cover deficiencies<sup>13</sup> caused by such desertion. The Report justifies Hastings' appeal for further information by the following considerations :—

1. Much had been advanced on behalf of a plea for a reduction of the revenue. The facts brought before the notice of the [cccxxii] Commissioners went to prove that "the prospect of the contingent and future benefit from the greater cultivation and improvement of the country<sup>14</sup> is hardly a motive sufficiently powerful to induce a zemindar to forego the immediate advantage which he enjoys by rack-renting his zamindaree, and exacting the greatest possible revenue from his tenants and vassals. . . . . The instances, especially in large zemindarees, are not unfrequent, where a reduction in the demand of government has been immediately followed by new taxes and imposition."

2. Experience shewed that unless the proportion of any tax to the total of the assessment of an entire district be first ascertained, the abolition of that tax rendered it

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13. See what has been said above on the subject of *najal*.

14. On the fallacy of supposing the zamindar was an "improving landlord", see Seton-Karr : *Cornwallis*.

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the business could not be left to the Provincial Councils because it required uniformity in design and authority in execution, the Governor-General and Council had it in their power to render the proceedings of the Provincial Councils uniform, and the necessary authority might have been delegated to them with safety. If the native officers of the Khalsah were not competent for this work, that was a reason for dismissing them and not for instituting a new office. The *Rai Raian* was the proper channel of such communications as require the interposition of a native expert, and the appointment of Ganga Govind Sing, dismissed from the service by the Calcutta Committee, was objectionable. The idea of deputing natives to hold local inquiries, and thus to oust the members of the Provincial Councils from their jurisdiction was astonishing. The letter ends with declaring "the minutes of General Clavering and Mr. Francis leave us little to add on this disagreeable subject. Their reasons against delegating a separate power of control to the Governor are noted and judicious, and we are happy in declaring that their conduct on the occasion meets with our entire approval."

The Commissioners in their Report with natural modesty decline to enter into the question which Francis had brought into prominence—are the zamindars the owners of the soil; but as Harington remarks, they would have elucidated the problem if they had abstained from calling land revenue "rent". They hold that the ancient mode of assessment was by actual valuation, but that, in course of time, the Mahomedan Government substituted for valuations conjectural estimates, and "this innovation on the part of Government authorized the like practice by the zemindars, and every additional sum exacted from them was levied by accumulated taxes on their vassals and ryots". The consequence of this change had been severely felt in the continued desertion of the land by the cultivators, and increased taxes levied to cover deficiencies<sup>13</sup> caused by such desertion. The Report justifies Hastings' appeal for further information by the following considerations:—

1. Much had been advanced on behalf of a plea for a reduction of the revenue. The facts brought before the notice of the [cccxxii] Commissioners went to prove that "the prospect of the contingent and future benefit from the greater cultivation and improvement of the country<sup>14</sup> is hardly a motive sufficiently powerful to induce a zemindar to forego the immediate advantage which he enjoys by rack-renting his zamindaree, and exacting the greatest possible revenue from his tenants and vassals. . . . The instances, especially in large zemindarees, are not unfrequent, where a reduction in the demand of government has been immediately followed by new taxes and imposition."

2. Experience shewed that unless the proportion of any tax to the total of the assessment of an entire district be first ascertained, the abolition of that tax rendered it

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13. See what has been said above on the subject of *najai*.

14. On the fallacy of supposing the zamindar was an "improving landlord", see Seton-Karr : *Cornwallis*.

impossible to determine what its amount had been. <sup>15</sup>

3. Claims for reduction of revenue were made on the ground of river encroachments, new markets, usurpations on the part of neighbouring zamindars. Information was not to hand to enable a decision to be made.

4. Relying on the Government's want of information, the zamindars and their officers had made alienations of their lands on a far too lavish scale. "It will hardly be credited that in the small district of Mahomedshahy, which pays only Rupees 2,90,000 to Government, no less than 1,61,000 appear thus to have been exempted from taxation. The very large proportion of land set apart for the maintenance of servants in some zemindarees give strong reason to believe that the name of *chakeran zemeen* has also been used to cover collusive grants and to diminish the public revenue". <sup>16</sup>

[cccxxlii] 5. "The Mogul Government, from its greater vigour, the undivided authority which it possessed, and the severe examples of which it could make offenders, was able to detect and prevent collusions by means unknown to, and incompatible with the genius of our Government. The dread of the powers, with which the Mussulman Government were thus armed on the minds of a people long used to submission was alone sufficient to render the exercise of them seldom necessary. When the English obtained possession of this country, the revenues continued to be collected by the ordinary coercive means, and although the same severities were not practised, the idea of absolute undivided power continued to operate, and the force of that impression is not yet entirely spent. But under the present constitution, where every act of authority and right of government is liable to be contested and litigated; it is perhaps only by regular systems and official checks that the public revenue can be secured; for it is evidently the interest of a zemindar

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15. The Commissioners give the following cases in point. "1. In the year 1771, the *bazee jumma* which was supposed to consist only of fines and forfeitures, was, in consequence of the Commands of the Company, ordered to be abolished. It was not then known that this extensive branch of revenue comprehended many taxes of an unexceptionable nature .....2. In the year 1772, the *sayer chalunta*, or duties collected by the zamindars on goods passing through their districts was abolished, and a new system for the management of the customs established. To indemnify the zamindars for the loss which they sustained by this measure, a deduction from their revenue was granted them, but being possessed of no accounts by which an estimate of the whole sum collected throughout the provinces under this head, or of the respective proportions of each zamindar, could be formed, Government was reduced to the necessity of granting abatements according to the accounts then delivered by the zemindars themselves .. 3. Similar inconveniences attended the abolition of *maroocha* or a tax on marriage; and claims on account of the abolition of these oppressive and impolitic taxes continue to be preferred, from the belief that it is impossible for the officers of Government to controvert them."

16. Harington refers to an abstract by the Commissioners in which it is stated that "the quantity of land held exempt from assessment in the districts to which aumils were deputed (about 2/3rds of the province of Bengal) to be 43,96,095 *begahs*, besides 12,04,547 of *chakeran* land assigned, for the maintenance of zemindary officers and servants. Of the latter, 1,43,416 *begahs* paid a small quit rent, amounting for the whole to Rupees 66,049 per annum; the remaining 10,61,430 *begahs* were not liable to any rent to the zemindars, the rent produce being appropriated in lieu of wages".

to obtain a remission in the amount, or to evade the payment of the sum assessed on his district. In this case it is often necessary to divest him of the management, and either to collect the rents by officers immediately appointed by Government, when it is called a *khas* collection, or to farm it out for a certain sum to be paid into the public treasury. The farmer or the superior officer of Government, styled *sazawul* or *aumil*, stands instead of the zemindar, and receives from *muzcorries*,<sup>17</sup> from *shaikdars*,<sup>18</sup> from *kutkenadars*.<sup>19</sup> But without the possession of the accounts and knowledge of the revenue of the district, the interest of the zemindar will prompt him, and his superior influence will always enable him to obstruct the collections of a *sazawul* or farmer, in hopes ultimately to reduce the Government to the necessity of restoring him to the management on his own terms."

The Commissioners expressed the hope that the voluminous materials they had prepared would afford the materials necessary for the formation of a new settlement, and should the zemindars decline to enter into engagements, the Government, with the information now to hand, would be enabled to divide up the zamindaris and collect the revenue independently of the recalcitrant zamindars. With a view to the preparation of the settlement, the Commissioners made some observations in regard to the means of discovering whether or not, the lands were in reality in a state of decline and unable to bear their present [cccxxiv] burdens of revenue. The causes of an increase or decrease in the revenues of a district, they say, may be classified as (1) temporary, (2) fixed, and (3) progressive. A plan for the reduction of the revenue would have to take account of this distinction of causes leading to an alteration in the revenue receipts, but, as has been seen, Francis had taken it for granted that the districts of Bengal were one and all in the same condition of progressive decay. Wherever a close examination of the conditions of the country (to which Francis had objected) proved that an increase in the *nirik*, or rates of land revenue, had been accompanied by an increase in cultivation, the district could be said to be in a flourishing condition. On the other hand, where the *nirik* had been increased while the country became less populous, it might, unless no other cause could be found to account for the depopulation, be considered that the district was suffering from the incidence of a too heavy revenue demand. Where the ryots paid their revenue in kind, and cheapness of grain, or a severe drought had affected the payment of the revenue in a particular year, the causes of the variation were clearly of a merely temporary nature. The establishment of new villages, or markets, the abolition of taxes, on the one hand, or the encroachments of rivers on the other, would have a permanent or fixed influence. The progressive causes of increase or decrease, the Commissioners say would be difficult of explanation,

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17. *Mazkuri* here means a talukdar who pays his revenue through a zamindar. Gladwin gives a different definition of the term.

18. The Commissioners define : "The *Etaumdar* or *shaikdar*, is a temporary officer appointed to manage and collect the revenue of a *dhee*, *turriff*, or *purgunnah*."

19. *Katkinadar*. "The farmers are called *kutkenadars*, and stand exactly in the stead of *shaikdars* or *etaumdars*. The latter receive a salary and are accountable for what they collect, the advantages of the former depend on the bargain they have made."

“although understood by every native *mut suddie* [mutasaddi].” A combination of an annual increase in the revenue and in the population, or a combination of depopulation with a lowering of the rates [expressly designed to encourage population] would suggest the existence of progressive causes, such as the want or abundance of specie, or the augmentation or decrease of taxation.

The arguments of Francis had practically taken it for granted that the zamindars were the cultivators, and that a reduction of the land revenue made in their favour would directly tell on the cultivation of the lands, or, as he would have put it, “ease the country.” It is not difficult for us to realise how in a time of political unsettlement, overlordship would come to look like landlordship; and how the peasant, who by clearing the soil in the first instance and by continuous cultivation had acquired rights of status, under the oppression of an overlord or the distress occasioned by a famine, would, so far from claiming his permanent rights to the soil, welcome an opportunity of deserting with impunity. Those who believed that the zamindar was not merely the state-appointed collector of the revenue from peasant holders but the actual land-owner, would naturally credit the zamindar with a natural interest in the improvement of the cultivation of the lands yielding the revenue: but experience was always in opposition to this view. The zamindar might or might not introduce improved methods in his own particular nanker lands, but from those of the khudkasht ryot he expected just what the State expected from himself—an increasing yield of revenue. The Commissioners did not arrive at so radical an explanation, but they bordered on it when they said: “In those cases where it may be necessary to grant a remission, there is reason to believe that, unless a proportion of the *aboabs* [*abwabs*] or taxes [cccxxv] on the ryots, be at the same time struck off, the indulgence of Government, especially in the large zemindarees, will seldom be felt by the lower class of people.”<sup>20</sup>

Francis’ objection to a Government being concerned with minute financial researches bore fruit in the directions given by the Court of Directors for the decennial settlement: that “minute examinations or new local investigations into the actual value of the lands” were discouraged. Lord Cornwallis, however, found it necessary to explain to the Board of Revenue,<sup>21</sup> that this direction was not meant “to preclude local investigations in order to obtain a knowledge of the actual resources of a district where a want of all good information or other circumstances might render it invaluable.”<sup>22</sup>

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20. As an illustration may be quoted a letter of the Supervisor of Rangpur in 1770: “The poor ryots who are the people who should receive every encouragement, especially in such hard times, benefited nothing by the allowance made account of the drought; on the contrary it was of prejudice to them, as the zamindars and farmers, who were at first excused the sum of 1,49,000 collected that amount from them as well as 92,000 of *Mahtoot* account that deduction. Not that I believe he, the Amil, received any part of this: only the zemindars and creatures of Government employed in the collections I can imagine to have been concerned”.

21. 5th. Feb., 1787.

22. Mr. T. Sisson, writing on April 2, 1815, comments: “The district of Rungpore, which fell so exactly under this exception, was unfortunately not exempted from the general principle. Thus, whilst

The Court of Directors were as slow to express their opinion in regard to general plans for the collection of the revenues, as they were quick in finding fault with the doings of their Governor. On 3rd February they write :

"Para. 8. We apprehend that a sudden transition from one mode to another in the investigation and collection of our revenues in Bengal may have alarmed the inhabitants, particularly the Native Zemindars and Landholders, lessened their confidence in our stability, and been attended with other evils ; yet as it is acknowledged on all hands to have produced the good effect of ascertaining, with a sufficient degree of precision, what revenue may be collected from the country without oppression, we shall avail ourselves of this information, and are well pleased to find it in our power to yield proper relief to the Natives, without involving the Company in the least inconvenience.

[cccxxvi] "9. From the inequality of natural advantages possessed by the natives in the several Districts, from calamities experienced in a different degree by loss of inhabitants in the late famine, and from a variety of other local causes, we fear it will be difficult, if not impossible to lay down any plan which shall be found applicable in all cases, and equally beneficial to every part of the country ; much must necessarily be left to your prudence, as your conduct on many occasions will be influenced by temporary circumstances. We shall therefore only point out such regulations as from the materials before us appear proper to be adopted in disposing of the lands of Bengal.

"10. Without entering minutely into the reports made by the Chiefs of Provincial Councils we are happy to find by estimates founded upon, and supported by accounts of actual receipts and disbursements, with other documents of decisive authority, that we need not entertain the least apprehension of a disappointment in any reasonable expectation formed by us respecting the revenues of Bengal, and of their sufficiency, under proper management, unless in times of public calamity, to support our Government, to provide the most ample investments, and to afford considerable assistance to our other Settlements.

"11. The distance of many districts from Calcutta will render it necessary for Zemindars or farmers to treat with Provincial Councils, or other agents of the Company on the spot ; but it is our order, that no agreements for lands or revenues, wherein the stipulated amount shall exceed 30,000 rupees be finally concluded, until reported to, and authorized by the Governor-General and Council.

the settlement of Dinagore, the state of which district must have been precisely similar to that of Rungpore was by the zeal, diligence, and abilities of Mr. Hatch, founded on the result of the minutest investigations into the state of the internal resources of every pergunnah, that of Rungpore was established on the uncertain criterion of preceding settlements, which had their basis in conjecture". "Mr. Hatch made a circuit of his district, and thereby ascertained the real state of the country, entered upon the arduous duty of settling what was all confusion with unremitted perseverance, and thus perfected a settlement which will hand down his name in honour to after ages. Mr. Purling yielded to the intricate confusion of the mofussil economy of Rungpore, and thus entailed upon future generations the evils, which it is now so difficult to remedy." In a letter written in 1787, D. H. McDowall pleaded for a "particular examination of the actual resources of the Rungpore District," but apparently was not encouraged. Glazier : *Further Notes on the Rungpore Records.* (1876).



"12. Having revoked our orders to let the lands to the highest bidders, and signified our pleasure to have them occupied by hereditary Zemindars where it can be done with security to the revenue, and being desirous that they should enjoy their Zemindaries on terms sufficiently moderate to enable them to maintain a degree of respect amongst their dependents. We direct that you keep this idea in every agreement to be made with the said Zemindars ; we cannot however empower you to make a general reduction or abatement of any specific sum upon the whole Jummah, but rather wish you to be guided in such reductions, where they are absolutely necessary, by an enquiry into the amount of Mhatutes, Aboabs, or additional taxes or collections of any kind imposed upon the Districts since the Company's accession to the Duanny, and to abolish the whole, or such part thereof, as shall fully appear to be an oppression upon the Country.

"13. We think that the Sale of part of the Zemindaries is not always an advisable measure to realize any Balance incurred [cccxxvii] by Zemindars, for as the lot to be sold must bear a proportion to the amount of such balance (it being unjust to sell more than necessary) the proprietor of a small tract may be subjected to difficulties from the exercise of the Zemindar's remaining authority in his own district. We are therefore of opinion that no Zemindary except of moderate extent, ought to be dismembered if it can possibly be avoided, but that it would be far more eligible for the whole to stand charged with the balance incurred, and that, if deemed necessary the Zemindar's authority and interest should be totally suspended, and a deputy appointed to manage his affairs til all his debts to Government are fully paid and satisfied, when the Zemindary should be restored entire to him or his heirs.

"14. As the inhabitants of the Duanny lands, and particularly of the distant Provinces, are represented more indigent than those nearer the Seat of Government, you will be careful to yield them such relief as shall be requisite in their particular circumstances.

"15. Although we do not for the present think it expedient to let the lands on leases for lives, or on terms more permanent than those already specified, it is nevertheless our earnest desire to impress the Zemindars and Renters with a full confidence in the justice of our proceedings, and particularly to convince them, that while they behave with honor to us and with kindness to their under-tenants and cultivators, they shall most certainly experience our favour, and that nothing but a contrary conduct can ever subject them to our displeasure. We therefore direct that wherever lands have been let at a reasonable rent, and the Zemindar or Renter has fulfilled his engagement to your satisfaction, no such person be dispossessed of lands, or compelled to pay an advanced rent, without the most substantial reasons for such advance ; and even then he shall have the preference of all others, and be suffered to continue at a moderate additional rent ; but in all instances where such increased value shall not be considerable enough to become an object of consequence to Government, no Zamindar or Renter shall be dispossessed or molested, but permitted to enjoy the fruits of his industry and improvements, and to renew his lease or agreement from year to year without any increase of rent.

"16. We direct that in every agreement for lands care be taken that the principal Farmer or Zemindar be obliged to grant pottahs to his ryots or under-tenants, specifying the exact amount to be paid by each, and that every breach of this regulation shall subject the principal, if a farmer, to the loss of his farm, or if a Zamindar to the loss of his Zemindary; and it is our further order, that a proper form for pottahs be [ccccxviii] prepared by you, and that no pottah be deemed legal or binding on the parties unless made out exactly in the form prescribed.

"17. If the repairs of dams, banks and bridges, commonly called Poolbundy, cannot be safely entrusted to the care of Zamindars or Farmers you are to make an estimate of the expense that may be incurred on such service and to fix the Jumma accordingly; but when fixed, you are not to make any additional Assessment, or suffer any to be imposed, or any separate collection to be made on that account on any pretence whatever.

"18. We direct that you endeavour to reform all abuses in grants of Charity Lands; and it is our order that no Zemindar's grant whatever shall exempt such lands from making good the Jumma, if the Zemindar shall at any time fall in arrear to Government.

"19. If you are fully convinced that the establishment of Provincial Councils has not answered, nor is capable of answering the purposes intended by such institution, we hereby direct you to form a new plan for the collection of the revenues and to transmit the same to us for our consideration."

On 23rd December, 1778, the Directors once more insisted on annual settlements<sup>28</sup>—a system which in earlier days they had condemned and which all experience had proved to be productive of conditions of uncertainty and distrust, and a well nigh fatal discouragement to the extension and improvement of cultivation.

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23. "130. In our letter of the 24th December, 1776, you were requainted that, for many weighty reasons, we did not then think it advisable to authorize you to let the lands of the Provinces in leases for lives or in perpetuity. The same reasons still operate. We, therefore, direct that you relet the lands from year to year, on most advantageous terms procurable, except by public auction, until you shall be duly authorized and empowered by the Court of Directors to adopt another system; and we further direct that you also continue to make the letter and spirit of our orders of the 8th of February, 1777, the rule of your proceedings on this important subject."

## CHAPTER XVII.

### THE CHANGES OF 1781

[cccxxix] On the morning of August 17th, 1780, Hastings and Francis, accompanied by their Seconds, met beneath the trees of Alipur to fight the historical duel, which formed the dramatic climax of the six years' controversy at the Council Board. <sup>1</sup> On December the 3rd Francis sailed for England, and the removal of his dangerous opponent may perhaps have supplied the opportunity for Hastings to return to a long cherished design of restoring that revenue organisation, which planned in 1772, had in the following year been supplanted by temporary expedients. The important step was taken on the 20th February, 1781, and the opening paragraph of "the permanent plan" adopted on that day commences with an explanation :

"The system which yet subsists, though with many essential variations, of superintending and collecting the public revenue through the agency of Provincial Councils, was instituted for the temporary and declared purpose of introducing another more permanent mode, by an easy and gradual change, by which the effects of too sudden an innovation might be avoided. This permanent plan is methodically and completely delineated in the same proceedings of 23rd of November, 1773, of this department, in which the Provincial Councils were established. It consists substantially in this : that all the collections of the Provinces should be brought down to the Presidency, and be there administered by a Committee of the most able and experienced of the covenanted servants of the Company, under the immediate inspection of, and with the opportunity of instant reference for instruction to the Governor-General and Council".

To give effect to this design, it was determined :

1. "That a Committee of Revenue, consisting of four covenanted servants of the Company, be immediately constituted ; who shall be intrusted with the charge and administration of all the public revenues of these provinces, and invested, in the fullest manner, with all the powers and authority, under the control of the Governor-General and Council, which the Governor-General and Council do themselves possess and shall not reserve exclusively to themselves". <sup>2</sup>

1. Busted : *Echoes from old Calcutta*. Chap. vi.

2. The first to be appointed to this Committee were David Anderson, John Shore, Samuel Charters, and Charles Croftes. Anderson was, however, far too busy in conducting Hastings' political work, to be able to attend the meetings of the Revenue Committee. Shore had been much attached to Francis, and his appointment is a token of Hastings' impartiality. Croftes, a close friend of Hastings', was ultimately compelled to relinquish this high office, and go as Chief to Chittagong, then regarded as a health-resort, where he died. .

[~~ccccxx~~] 2. (Art. 3). "That the Provincial Councils shall be dissolved, and their charge and powers transferred to the Committee of Revenue ; that the members of the Councils be ordered forthwith to repair to the Presidency, except the Chiefs of each, who shall remain in the temporary charge of their respective divisions, under the authority of the Committee, untill such time as they shall be recalled by the orders of the Governor-General and Council".

3. (Art. 4). "That the Collectors of the separate districts shall in like manner remain in their respective stations, under the authority of the Committee, until such time as they shall be recalled by order of the Governor-General and Council".

4. (Art. 5). "That the office of Superintendent <sup>8</sup> of the Khalsa Records shall be abolished, and the office of the Khalsa, with all its dependent offices, and all the functions and powers appertaining to it, shall be transferred to the Committee of Revenue."

5. (Art. 6). "That the Canongoes shall be re-instated in the complete charge and possession of all the functions and powers which constitutionally appertain to that office." <sup>4</sup>

This measure was designed to carry out the essential points of Hastings' revenue policy of 1772-73, and to bring the revenue administration to centre at Calcutta. The objection to the measure was that the Provincial Councils being in closer touch with the districts grouped round them were more likely to possess adequate local information than a central Revenue Committee at Calcutta. To such an argument the reply would be in the superiority of the European Collectors to the Native Naibs, and the advantages which the wider experience of a picked body of expert servants was bound to have over merely local Councils largely composed of juniors in the service. To the objection that the appointment of a Committee was an infringement on the powers of the Council, the reply would be that the Committee were dependent on the Council and that in fact what the Committee took over was not the supreme control of the Council, but the control hitherto vested in the Provincials. At the impeachment of Warren Hastings, however, a corrupt motive for making this change was imputed to the Governor-General, and it was represented that he had, after praising the Provincial Councils, abolished them, in order that he might offer places of increment to the various vile people [~~ccccxxi~~] from whom (it was alleged) he received bribes. The fact that he had from the very first intended the Provincial Councils to serve only temporarily was skilfully hushed up.

The restoration of the collectors, according to Sir William Hunter, represents a "swing of the pendulum" from trust in native agencies coupled with mistrust

3. The office of Superintendent of the Khalsa Records had been created by Hastings, and the first to hold it was the able and adventurous youth, Alexander Elliot, a younger brother of the first Lord Minto. At the time of its abolition it was held by G. G. Ducarel. An officer called "Preparer of Reports to the Board of Revenue" was appointed, and the first to hold this appointment was Jonathan Duncan, who ultimately became Governor of Bombay, and deserves a prominent place in any Indian temple of philanthropic fame.

4. Colebrooke *Op. cit.* pp. 213-20. The remaining articles relate to details of business.

in English to trust in English agencies coupled with mistrust in native. It was rather the result of a more generous belief in the capacities of an honest Englishman to do good service, and educate his Indian colleagues in the service. Under the Provincial Council system a number of the Company's servants had been stationed at the provincial capitals where the bulk of the business passed before them as transactions to be conducted on paper. Taken away from the capitals, where the Provincial Councils had corporately dealt with the details of rural administration *en bloc*, and given districts of their own to manage, real living persons instead of papers to deal with and a responsibility for failure as well as a defined scope for ambition, the Company's servants were bound to improve in assiduity, honesty, and experience. The failure of the English government hitherto had been largely due to an inability to realise the demand which the administration of so vast a country would make for the provision of English servants to superintend the districts. The Diwani had seemed to provide an almost adequate administrative instrument of government ready to the hand of the Company. During the year of the great famine, the instrument had gone on working, while the revenue in almost undiminished volume came into the Company's treasury; but facts had shewn that the machinery of the native Revenue administration, left to do its work apart from a powerful control, would bring the country producing the revenue to ruin. The inadequacy of the cadre of the Company's servants made it difficult to provide the English officers required for revenue and judicial work in the districts, but slowly it came to be understood that, difficult as the task might prove itself to be, the district officers for the Diwani lands must either be found, or the oppressions so often complained of would increase and render the Company's position in Bengal intolerable. It is misleading to say that the measure of February, 1781, marks the commencement of a direct English rural administration in Bengal; but the fact that such a view has been stated by authoritative historians is a token of the importance of the measure.

In the same year the Diwani judicial system was strengthened by the creation of new mufassal adalats. In four out of eighteen districts,—*viz.*, at Chupra, Boglepore, Chittagong, and Rampur, the Collector was to be Collector and Judge; at the other fourteen, *viz.*, Midnapore, Patna, Darbangha, Taujepore, Nattore, Dacca, Bakarganj, Masey, Rajhat, Sultansi, Murli, Calcutta, Burdwan and Murshidabad the Judge was to be without any concern in the revenue administration.

Having reconstituted the Sadar Diwani Adalat and placed it under the able management of Sir Elijah Impey, Hastings was in a position to deal with the Faujdari Adalats, or criminal courts, which still in theory [cccxxxii] depended on the Naib Nazim at Murshidabad. Under the Regulations of August 21st, 1772, the Collectors of revenue had been charged with the duty of superintending the officers of the Faujdari courts, to see that the necessary witnesses were summoned and examined, that due weight was given to their evidence, and that the decisions were impartially and fairly given. When the Murshidabad Comptrolling Council was abolished, the Sadar Nizamat Adalat at Murshidabad was brought down to Calcutta, and placed under the charge of a

*darogha* subject to the control of the President of the Council, who, on behalf of the Nawab, revised the sentences of the criminal court in capital cases. The establishment of the Supreme Court, as has been seen, had the effect of bringing the Sadar Diwani Adalat into abeyance; and it was no doubt due to the same circumstance that on October 18th, 1775, the Supreme Court sent the Nizamat Adalat back to the old capital, and placed it under the charge of Mahomed Reza Khan as Naib Nazim.<sup>5</sup> In 1774 the Collectors had been recalled, and in the districts the Faujdars, assisted by law-officers of various descriptions, held courts and acted as magistrates of the peace. The proposals of Hastings and of Francis in 1775 to receive the police jurisdiction of the zamindars have been noticed in a previous chapter.

On April 6th, 1781 Hastings brought forward a measure, designed to supplement the Faujdari courts. These courts were to continue their operations, and to remain under the superintendence of the Naib Nazim, but the English Judges of the Diwani Courts were appointed magistrates, and invested with power to apprehend persons charged with crimes and misdemeanours, and to commit the same to the nearest Faujdari Court for trial, judgement being reserved to the Nizamat. The measure tended to strengthen the hands of the English district officers, and to secure the peace of the districts; it deprived the faujdar of the easy excuse that the prevailing influence of the British officer robbed him of his moral power; and made it impossible to plead that he would deal severely with the law breaker, if he could catch him but to catch him was beyond his power. The measure bore away the first and perhaps the most difficult obstacles which, but for this measure, Lord Cornwallis would have met with in 1790, when the Courts of Circuit were introduced to deal in the first instance with persons charged with crimes and misdemeanours.

Mention at least should be made in this place of Impey's Civil Procedure Code, drawn up for the use of the Sadar and Mufasssal Diwani Adalat. Thirteen articles were put forth on the 3rd of November, 1780, and on the 5th of July in the year following a revised regulation, of ninety-five articles was issued—"the first attempt to codify the law of Civil Procedure in British India."<sup>6</sup> A Persian translation by William [ccccxxiii] Chambers<sup>7</sup> appeared in 1781, and a Bengali translation by Jonathan Duncan (afterward Governor of Bombay and a famous humanitarian statesman) in 1783.<sup>8</sup>

The Act of Parliament (21 Geo. III. c. 70), passed in 1781, was designed to remedy "the ruinous mistake of" the Regulating Act of 1773. By indemnifying the

5. The Faujdari prison, known by the Hindu name of Harinbari (decrhouse) however still continued to exist in Calcutta. See *Bengal : Past and Present*, vol. viii, pp. 64-82.

6. Acharyya : *Codification in British India*. Tagore Law Lectures, Calcutta, 1914, p. 55. In 1773 Warren Hastings set a committee of Pandits to work on a code of "Gentoo" laws. The code was compiled and translated into English by N. B. Halhed. See Appendix A. to Mr. Acharyya's work. The Halhed or Hastings' Code deals with both adjective and substantive law.

7. A brother of Sir Robert Chambers and a translator into Persian of a part of the New Testament.

8. The sweeping remarks made by Marshman in his work on the great Serampore missionaries as to the neglect of the Bengali language by Englishmen, prior to the advent of Carey, must be taken *cum grano*.

Governor-General in Council and the Advocate-General for transgressions of the law in opposition to the Judges, the Act of 1781 practically denied the attitude of the Judges in the conflict with the Executive to have been, according to the letter of the law, theoretically correct, but the preamble referred to "misunderstandings and discontents," "fears and apprehensions" due to the "dissension between the Judges and the Governor-General and Council" and pointed at "further mischief" which might ensue "if a reasonable and suitable remedy be not provided". The provisions of the Act may be summarily stated as follows :

1. The Governor-General and Council, jointly or severally, were declared not subject to the jurisdiction of the Supreme Court "for or by reason of any act or order, or any other matter or thing whatever, counselled, ordered, or done by them in their public capacity and acting only as Governor-General and Council."<sup>9</sup>

2. At the same time it was declared that the Supreme Court should have no jurisdiction in matters concerning the revenue or acts ordered and done in the collection thereof according to the practice of the country, and the regulations of the Governor-General and Council, and it was provided that mere employment by the Government, the Company, or by a native of Great Britain should not in itself render the person so employed subject to the jurisdiction of the Supreme Court in matters of inheritance to lands or goods, or in matters of contract and dealing between party or parties, except in actions for wrongs or trespasses, and also except in any civil suit by written agreement of parties to submit to the Court's decision.<sup>10</sup> Persons exercising judicial offices in the Indian Adalats, and persons acting under such authority, were not to be amenable to actions for wrong or injury in the Supreme Court.

3. The 17th section of the Act, in empowering the Court to determine all actions and suits against the inhabitants of the [ccccxxiv] city of Calcutta, provided that "their succession and inheritance to lands, rents, and goods, and all matters of contract and dealing between party and party, should be determined in the case of Mahomedans by the laws and usages of Mahomedans, and in the case of Gentoos by the laws and usages of Gentoos ; and where only one of the parties should be a Mahomedan or Gentoo by the laws and usages of the defendant."<sup>11</sup> Power was conceded to frame suitable process in criminal and civil suits against the natives of the Presidency with a view to the religious and social customs and manner of the people.

4. The Courts dependant on the country constitution were recognised, and recognition was given to the authority of the Governor-General and Council in framing regulations for such courts.

Professor Cowell has pointed out that in the Act of 1781, also in the Act of 1773, the phrase *British subjects* is used in such a way as necessarily to exclude from its meaning the Hindu and Mahomedan inhabitants. The distinction between the inhabitants of the Company's factories and the millions under the Mughal imperium was to live for at least another eighty years or in the distinction between the Presidency Towns and the Mufassal.

9. Cowell : *The History and Constitution of the Courts and Legislative Authorities in India*. Tagore Law Lectures, 8th edition, Calcutta 1905, p. 53. 10. *Ibid*, p. 54. 11. *Ibid*, p. 56.

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